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No. 12]

NEW DELHI, SATURDAY, MARCH 20, 1999/PHALGUNA 29, 1920

इस भाग में भिन्न पृष्ठ संख्या दी जाती जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate paging is given to this Part in order that it may be filed as a
separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)

PART II—Section 3—Sub-Section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांख्यिक आदेश और अधिसूचनाएँ
Statutory Orders and Notifications Issued by the Ministry of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक-शिक्षा तथा पेंशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 3 मार्च, 1999

का. आ. 779.—केन्द्रीय सरकार, दिल्ली विशेष पुलिस स्थापन अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, गृह (जी.आर.वी.) विभाग की अधिसूचना सं. एफ. 14 (2) गृह/जी.आर.वी./98 तारीख 18 दिसम्बर, 1998 द्वारा राजस्थान राज्य सरकार की गृहमति से, भारतीय दंड संहिता, 1860 की धारा 302, 201, 120B, 466, 218, 109 के अधीन दंडनीय अपराधों के और राजस्थान के पुलिस थाना कोतवाली डुंगरपुर के केस एफ.आई.आर. सं. 6/98 के, जो श्री गोपाल नारायण मीणा, आर.पी. एस. अधिकारी की अप्राकृतिक मृत्यु से संबंधित है, तथ्यों से उद्भूत होने वाले का वैसे ही संश्लेषण के लिए किए गए अन्य अपराध या अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापन के सदस्य की शक्तियों और

अधिकारिता का विस्तार संपूर्ण राजस्थान राज्य पर करती है।

[सं. 228/42/98—ए.वी.डी.—II]

हरि सिंह, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSION

(Department of Personnel & Training)
New Delhi, the 3rd March, 1999

S.O. 779.—In exercise of the powers conferred by sub-section (1) of section 5 read with Section 6 of the Delhi Special Police Establishment Act, 1946 (Act. No. 25 of 1946), the Central Government with the consent of the State Government of Rajasthan vide Home (G.R.V.) Department Notification No. F. 14(2) Home/G.R.V./98 dated 18th December, 1998, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment to the whole of the State of Rajasthan for investigation of offences punishable under sections 302, 201, 120-B, 466, 218, 109 of The Indian Penal Code, 1860 and any other offence or offences committed in the course of the same transaction or arising out of the same facts of case F.I.R. No. 6/98 of Police Station Kotwali, Durgapur, Rajasthan relating to the unnatural death of Shri Gopal Narayan Meena, RPS Officer.

[No. 228/42/98—A.V.D.—II]
HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

आदेश

नई दिल्ली, 24 फरवरी, 1999

स्टाम्प

का. आ. 780.—भारतीय स्टाम्प अधिनियम, 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खण्ड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा पंजाब नेशनल बैंक, नई दिल्ली को मात्र तीन करोड़ निम्नान्वे लाख छियासी हजार और चार सौ रुपये का समेकित स्टाम्प शुल्क अदा करने की अनुमति देती है जो उक्त बैंक द्वारा दिनांक 9-1-1999 को आवंटित किए गए मात्र तीन सौ निम्नान्वे करोड़ छियासी लाख और चालीस हजार रुपये के समग्र मूल्य के 389909 से 789772 तक की विशिष्ट संख्या वाले दस-दस हजार रुपये प्रत्येक मूल्य के 3,99,864 असुरक्षित गौण विमोक्ष्य बन्धपत्रों पर स्टाम्प शुल्क के कारण प्रभावी है।

[सं. 12/99—स्टाम्प का. सं. 33/10/99—बित्रीकर]

अपर्णा शर्मा, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

ORDER

New Delhi, the 24th February, 1999

STAMPS

S.O. 780.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits Punjab National Bank, New Delhi to pay consolidated stamp duty of rupees three crore ninety nine lakhs eighty six thousands and four hundred only chargeable on account of the stamp duty on 3,99,864 Unsecured Subordinated Redeemable Bonds of rupees ten thousand each bearing distinctive numbers from 389909 to 789772 aggregating to rupees three hundred ninety nine crores eighty six lakhs and forty thousands only allotted on 09-01-1999 by the said Bank.

[No. 12/99-STAMPS F. No. 33/10/99-ST]

APARNA SHARMA, Under Secy.

नई दिल्ली, 11 मार्च, 1999

(आयकर)

का. आ. 781.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा "एरो क्लब ऑफ इण्डिया, नई दिल्ली" को 1996-97 से 1998-99 तक के कर-निर्धारण वर्षों के

लिए निम्नलिखित शर्तों के अधीन रहते हुए, उक्त खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (1) कर-निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय का इस्तेमाल करने के लिए उसका संचयन इस प्रकार के संचयन हेतु उक्त खण्ड (23) द्वारा यथा-संशोधित धारा 11 की उपधारा (2) तथा (3) के उपबंधों के अनुरूप पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए, इसकी स्थापना की गई है;
- (2) कर निर्धारिती ऊपर उल्लिखित कर निर्धारण वर्षों में संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों में भिन्न तरीकों से उसकी निधि (ज्वर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु, जिसे उपर्युक्त खण्ड (23) के तीसरे परन्तुक के अधीन बोर्ड द्वारा अधिसूचित किया जाए, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;
- (3) कर निर्धारिती अपने सवस्थों को किसी भी तरीके से अपनी आय के किसी भाग का संचितरण अपने से संबद्ध किसी एसोसिएशन अथवा संस्था को अनुदान के अलावा नहीं करेगा; और
- (4) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जोकि कारोबार से प्राप्त लाभ तथा अभिलाभ हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएं नहीं रखी जानी हों।

[अधिसूचना सं. 10824 फा. सं. 196/19/98—

आ. का. नि. I]

समर भद्र, अवर सचिव

New Delhi, the 11th March, 1999

(INCOME TAX)

S.O. 781.—In exercise of the powers conferred by clause (23) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the "Aero Club of India, New Delhi" for the purpose of the said clause for assessment

years 1996-97 to 1998-99 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate it for application, in consonance with the provision of sub-section (2) and (3) of Section 11 as modified by the said clause (23) for such accumulation wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as may be notified by the Board under the third provision to the aforesaid clause (23) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;
- (iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it; and
- (iv) this notification will not apply in relation to any income, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10824/F.N.196/19/98-ITA-I]

SAMAR BHADRA, Under Secy.

नई दिल्ली, 11 मार्च, 1999

(आयकर)

का. आ. 782.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रिय सरकार एतद्वारा “तमिलनाडु टेनिस एसोसिएशन, मद्रास” को 1998-99, 1999-2000 तथा 2000-2001 तक के कर-निर्धारण वर्षों के लिए निम्नलिखित शर्तों के अध्वधीन रहते हुए उक्त खण्ड के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

- (i) कर निर्धारिती उसकी आय का इस्तेमाल अथवा उसकी आय को इस्तेमाल करने के लिए उक्त संचयन इस प्रकार के संचयन हेतु उक्त खण्ड (23) द्वारा यथा-संशोधित धारा 11 की उप-धारा (2) तथा (3) के उपबंधों के अनुरूप पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिए इसकी स्थापना की गई है

(ii) कर-निर्धारिती ऊपर उल्लिखित कर-निर्धारण वर्षों में संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ढंग अथवा तरीकों से भिन्न तरीकों से उसकी निधि [ज्वेयर-जवाहिरात, फर्नीचर अथवा किसी अन्य वस्तु, जिसे उपर्युक्त खण्ड (23) के तीसरे परन्तुक के अधीन बोर्ड द्वारा अधिसूचित किया जाए, के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न] का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;

(iii) कर-निर्धारिती अपने सदस्यों को किसी भी तरीके से अपनी आय के किसी भाग का संवितरण अपने से संबद्ध किसी एसोसिएशन अथवा संस्था को अनुदान के अलावा नहीं करेगा ; और

(iv) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ हों जब तक कि ऐसा कारोबार उक्त कर-निर्धारिती के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा पुस्तिकाएं नहीं रखी जाती हों ।

[अधिसूचना सं. 10825/फा. सं. 196/20/98-
आयकर नि.-I]

समर भद्र, अवर सचिव

New Delhi, the 11th March, 1999

(INCOME TAX)

S.O. 782.—In exercise of the powers conferred by clause (23) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies the “Tamil Nadu Tennis Association, Madras” for the purpose of the said clause for the assessment years 1998-99, 1999-2000 and 2000-2001 subject to the following conditions, namely :—

- (i) the assessee will apply its income, or accumulate it for application, in consonance with the provisions of sub-section (2) and (3) of Section 11 as modified by the said clause (23) for such accumulation wholly and exclusively to the objects for which it is established;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture or any other article as may be notified by the Board under the third provision to the aforesaid clause (23) for any period during the previous

years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11;

(iii) the assessee will not distribute any part of its income in any manner to its members except as grants to any association or institution affiliated to it; and

(iv) this notification will not apply in relation to any income, being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10825/F.N. 196/20/98-ITA-I]

SAMAR BHADRA, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 5 मार्च, 1999

का.आ. 783.—राष्ट्रीयकृत बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1980 के खण्ड 3 के उपखंड (1) और खण्ड 8 के उपखंड (1) के साथ पठित बैंककारी कंपनी (उपक्रमों का अर्जन और अंतरण) अधिनियम, 1980 की धारा 9 की उपधारा 3 के खंड (क) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्द्वारा, श्री वी. एस. वासन, वर्तमान महा-प्रबंधक, पंजाब नेशनल बैंक को उनके कार्यभार ग्रहण करने की तारीख से पांच वर्ष की अवधि के लिए ओरियंटल बैंक आफ कॉमर्स के पूर्णकालिक निदेशक (कार्यपालक निदेशक के रूप में पदनामित) के रूप में नियुक्त करती है।

[फा. सं. 9/5/98-बी.ओ.-I]

डी. के. त्यागी, निदेशक

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 5th March, 1999

S.O. 783.—In exercise of the powers conferred by clause (a) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1980, read with sub-clause (1) of clause 3 and sub-clause (1) of clause 8 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1980, the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri V. S. Vasani, presently General Manager, Punjab National Bank as a whole time director (designated as the Executive Director) of Oriental Bank of Commerce for a period of five years from the date of his taking charge.

[F. No. 9/5/98-B.O.-I]

D. K. TYAGI, Director

नई दिल्ली, 10 मार्च, 1999

का. आ. 784.—राष्ट्रीय बैंक (प्रबंध और प्रकीर्ण उपबंध) स्कीम, 1970 के खण्ड 3 के उपखंड (1) के साथ पठित बैंककारी कम्पनी (उपक्रमों का अर्जन एवं अंतरण), अधिनियम 1970 की धारा 9 की उपधारा 3 के खंड (ख) द्वारा प्रदत्त शक्तियों

का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्द्वारा वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) नई दिल्ली के संयुक्त सचिव श्री शेखर अग्रवाल की तत्काल प्रभाव से और अगले आदेशों तक के लिए बैंक आफ इंडिया के बोर्ड में निदेशक नामित करती है।

[फा. सं. 9/9/98-बी.ओ.-I]

डी. के. त्यागी, निदेशक

New Delhi, the 10th March, 1999

S.O. 784.—In exercise of the powers conferred by clause (b) of sub-section (3) of section 9 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970, read with sub-clause (1) of clause 3 of the Nationalised Banks (Management and Miscellaneous Provisions) Scheme, 1970, the Central Government, hereby nominates Shri Shekhar Agarwal, Joint Secretary, Ministry of Finance, Department of Economic Affairs (Banking Division), New Delhi as a Director on the Board of Bank of India with immediate effect and until further orders.

[F. No. 9/9/98-B.O.I.]

D. K. TYAGI, Director

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 25 फरवरी, 1999

का. आ. 785.—केन्द्रीय सरकार, तेल उद्योग (विकास) अधिनियम, 1974 (1974 का 47) की धारा 3 की उपधारा (3) के खंड (ग) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्द्वारा, श्री बी. सी. बोरा, अध्यक्ष एवं प्रबंध निदेशक, आयल एण्ड नेचुरल गैस कॉर्पोरेशन लिमिटेड, को दिनांक 25 जनवरी, 1999 से अगले आदेश जारी होने तक, एक ऐसी अवधि के लिए जो दो वर्ष से अधिक की नहीं होगी, आयल इंडिया लिमिटेड के अध्यक्ष एवं प्रबंध निदेशक के स्थान पर तेल उद्योग विकास बोर्ड के सदस्य के रूप में नियुक्त करती है।

[संख्या जी-35012/2/91-विन-II]

मोहित सिन्हा, उप सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 25th February, 1999

S.O. 785.—In exercise of the powers conferred by clause (c) of Sub-section (3) of Section 3 of the Oil Industry (Development) Act, 1974 (47 of 1974), the Central Government hereby appoints, with effect from 25th January, 1999 and for a period not exceeding two years, Shri B. C. Bora, Chairman and Managing Director, Oil and Natural Gas Corporation Limited, as a Member of the Oil Industry Development Board vice the Chairman and Managing Director of Oil India Limited, until further orders.

[No. G-35012/2/91-Fin. II]

MOHIT SINHA, Dy. Secy.

स्वास्थ्य और परिवार कल्याण मंत्रालय
(स्वास्थ्य विभाग)

नई दिल्ली, 25 फरवरी, 1999

का.आ. 786 :—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श के पश्चात्, उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित संशोधन करती है, अर्थात् उक्त प्रथम अनुसूची में,—

(1) “अलीगढ़ मुस्लिम विश्वविद्यालय” के सामने “मान्यता प्राप्त आयुर्विज्ञान अर्हता” के स्तम्भ में (जिसे इसके पश्चात् स्तम्भ (2) कहा गया है), डाक्टर ऑफ मैडिसिन (शरीर क्रिया विज्ञान) प्रविष्टि और उससे संबंधित “रजिस्ट्रीकरण के लिए संक्षेपाक्षर” के स्तम्भ में [जिसे इसके पश्चात् स्तम्भ (3) कहा गया है], की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
“मास्टर आफ सर्जरी (कर्ण, नासा, कंठ विज्ञान)	एम. एम. (कर्ण, नासा, कंठ विज्ञान) (यह मान्यता प्राप्त अर्हता तब होगी जब वह अगस्त, 1978 में या उसके पश्चात् प्रदान की गई हो;)”

(2) “बनारस हिन्दू विश्वविद्यालय” के सामने स्तम्भ में “डाक्टर आफ मैडिसिन (यक्ष्मा और श्वासन रोग;)” और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
“डाक्टर ऑफ मैडिसिन (मनोविकार चिकित्सा)	एम. डी. (मनोविकार चिकित्सा) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे जून, 1974 में या उसके पश्चात् प्रदान की गई हो;)”

(3) “कालीकट विश्वविद्यालय” के सामने स्तम्भ (2) “डाक्टर आफ मैडिसिन (बाल चिकित्सा)” प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
“मास्टर आफ सर्जरी (शरीर रचना विज्ञान)	एम. एस. (शरीर रचना विज्ञान) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे 1979 में या उसके पश्चात् प्रदान की गई हो;)”;

(4) “गुलबर्गा विश्वविद्यालय” के सामने स्तम्भ (2) में “डाक्टर ऑफ मैडिसिन (न्याय आयुर्विज्ञान)” प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात्, निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
“डाक्टर ऑफ मैडिसिन (विकरण निदान)	एम. डी. (विकरण निदान) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे अक्टूबर, 1994 में, या उसके पश्चात् प्रदान की गई हो।)
डिप्लोमा इन मेडिकल रेडिओ डाइग्नोसिस	डी. एम. आर. डी. (यह मान्यता प्राप्त अर्हता तब होगी जब इसे 1985 में या उसके पश्चात् प्रदान की गई हो।);

(5) "गुजरात विश्वविद्यालय" के सामने स्तम्भ (2) में "मेजिस्ट्रार चिराग्री (संज्ञिका शाल्य विज्ञान)" प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
"डॉक्टर ऑफ मैडिसिन (मनोविकार चिकित्सा)	एम. डी. (मनोविकार चिकित्सा) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे अक्टूबर, 1979 में या उसके पश्चात् प्रदान की गई हो।)";

(6) "गोआ विश्वविद्यालय" के सामने स्तम्भ (2) में "डॉक्टर ऑफ मैडिसिन (जीव रसायन)" प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
"डॉक्टर ऑफ मैडिसिन (सूक्ष्म जीव विज्ञान)	एम. डी. (सूक्ष्मजीव विज्ञान) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे जुलाई, 1989 में या उसके पश्चात् प्रदान की गई हो।)";

(7) "कर्नाटक विश्वविद्यालय" के सामने स्तम्भ (2) में "डॉक्टर ऑफ मैडिसिन (विकृतिजन्य)" प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
"डॉक्टर ऑफ मैडिसिन डिप्लोमा इन पब्लिक हेल्थ	एम. डी. (यह मान्यता प्राप्त अर्हता तब होगी जब इसे अगस्त, 1990 में या उसके पश्चात् प्रदान की गई हो।) डी. पी. एच. (यह मान्यता प्राप्त अर्हता तब होगी जब इसे फरवरी, 1991 में या उसके पश्चात् प्रदान किया गया हो।)";

(8) "मणिपुर विश्वविद्यालय" के सामने स्तम्भ (2) में "मास्टर ऑफ सर्जरी (नेत्र विज्ञान)" प्रविष्टि और उससे संबंधित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
"मास्टर ऑफ सर्जरी (विकलांग विज्ञान)	एम. एस. (विकलांग विज्ञान) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे जुलाई, 1996 में या उसके पश्चात् प्रदान की गई हो।)";

2	3
“डॉक्टर ऑफ मैडिसिन (मनोविकार चिकित्सा)	एम. डी. (मनोविकार चिकित्सा) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे जनवरी, 1998 में या इसके पश्चात् की गई हो।”)
(9) “मेरठ विश्वविद्यालय” के सामने स्तम्भ (2) में “मास्टर ऑफ सर्जरी” (नेत्र विज्ञान) प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—	
मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
“डिप्लोमा इन आबस्टेट्रिक्स एण्ड गाइनाकालोजी	डी.जी.ओ. (यह मान्यता प्राप्त अर्हता तब होगी जब इसे दिसम्बर, 1974 या उसके पश्चात् प्रदान की गई हो।”)
(10) “चौधरी चरण सिंह विश्वविद्यालय” के सामने स्तम्भ (2) में “मास्टर ऑफ सर्जरी” (नेत्र विज्ञान) प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—	
मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
“डिप्लोमा इन आबस्टेट्रिक्स एण्ड गाइनाकालोजी	डी.जी.ओ. (यह मान्यता प्राप्त अर्हता तब होगी जब इसे दिसम्बर, 1974 या उसके पश्चात् प्रदान की गई हो।”)
(11) “मणिपाल अकादमी ऑफ हायर एजुकेशन” के सामने स्तम्भ (2) में “डॉक्टर ऑफ मैडिसिन (शरीर क्रिया विज्ञान)” प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—	
मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
“डॉक्टर ऑफ मैडिसिन (अस्पताल प्रशासन)	एम. डी. (अस्पताल प्रशासन) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे जून, 1990 में या उसके पश्चात् प्रदान की गई हो।”)
डिप्लोमा इन डिर्माटोलोजी इनक्लूडिंग बिनिरल डिसीजस एण्ड लिप्रोसी	डी.पी.डी. (यह मान्यता प्राप्त अर्हता तब होगी जब इसे दिसम्बर, 1985 में या उसके पश्चात् प्रदान की गई हो।”)

12. "पंजाब विश्वविद्यालय" के सामने स्तम्भ (2) में डिप्लोमा इन ब्लड ट्रान्स्फ्यूजन" प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
"डॉक्टर ऑफ मेडिसिन (त्वचा विज्ञान, रतिज और कुष्ठ)	एम. डी. (त्वचा रतिज और कुष्ठ) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे दिसम्बर, 1985 में या उसके पश्चात् प्रदान की गई हो।)"

13. "पांडिचेरी विश्वविद्यालय" के सामने स्तम्भ (2) में डॉक्टर ऑफ मेडिसिन (शरीर क्रिया विज्ञान) प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
"डॉक्टर ऑफ मेडिसिन (मनोविकार चिकित्सा)	एम. डी. (मनोविकार चिकित्सा) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे मार्च, 1993 में या उसके पश्चात् प्रदान की गई हो।)"

14. "सौराष्ट्र विश्वविद्यालय" के सामने स्तम्भ (2) "डिप्लोमा इन ओप्योमायोजी" प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
"मास्टर ऑफ सर्जरी (शरीर रचना विज्ञान)	एम.एस. (शरीर रचना विज्ञान) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे 1976 में या उसके पश्चात् प्रदान की गई हो।)"

15. "गिवाजी विश्वविद्यालय" के सामने स्तम्भ (2) में "डिप्लोमा इन मेडिकल रेडियो डाइग्नोसिस" प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
"डॉक्टर ऑफ मेडिसिन (नियोप्लासम और मासाजिक आयुर्विज्ञान)	एम. डी. (नियोप्लासम और सामाजिक आयुर्विज्ञान) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे दिसम्बर, 1993 में या उसके पश्चात् प्रदान की गई हो।)"

16. "मै गल्लो विश्वविद्यालय" के सामने स्तम्भ (2) में डॉक्टर ऑफ मेडिसिन (त्वचा और रतिज रोग) प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
डिप्लोमा इन डिग्रेडोयोजी इन्फेक्शन विमिग्न डिमीजस एण्ड लिप्रोसी	डी.बी.डी. (यह मान्यता प्राप्त अर्हता तब होगी जब इसे जून, 1976 में या उसके पश्चात् प्रदान की गई हो।)"

17. "गुरुनानक देव विश्वविद्यालय" के सामने स्तम्भ (2) में "डॉक्टर ऑफ मेडिसिन (बाल चिकित्सा)" प्रविष्टि और उससे सम्बन्धित स्तम्भ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता	रजिस्ट्रीकरण के लिए संक्षेपाक्षर
2	3
"डॉक्टर ऑफ मेडिसिन (विकरण निदान)	एम.डी. (विकरण निदान) (यह मान्यता प्राप्त अर्हता तब होगी जब इसे जून, 1976 में या उसके पश्चात् प्रदान की गई हो।)"

[सं. बी-11015/16/98-एम ई (यू जी)]

एस.के. मिश्रा, डेस्क अधिकारी

MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health)

New Delhi, the 25th February, 1999

S.O. 786.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956) the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule—

(1) Against the 'Aligarh Muslim University', in the column 'Recognised Medical Qualification' [hereinafter referred to as column (2)], after the entry 'Doctor of Medicine (Physiology)' and the entry relating thereto in the column 'Abbreviation for Registration' [hereinafter referred to as column (3)], the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
2	3
"Master of Surgery (Oto-Rhino-Laryngology)	M.S. (Oto-Rhino-Laryngology) (This shall be recognised qualification when granted in or after August, 1978)

(2) against the 'Banaras Hindu University' in column (2), after the entry 'Doctor of Medicine (T.B. and Respiratory Diseases)' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
Doctor of Medicine (Psychiatry)	M.D. (Psychiatry) (This shall be a recognised qualification when granted in or after June, 1974)."

(3) against the 'Calicut University' in column (2), after the entry 'Doctor of Medicine (Biochemistry)' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Master of Surgery (Anatomy)	M.S. (Anatomy) (This shall be a recognised qualification when granted in or after 1979)",

(4) against the 'Gulbarga University' in column (2) after the entry Doctor of Medicine (Forensic Medicine) and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Doctor of Medicine (Radio Diagnosis)	M.D. (Radio Diagnosis) (This shall be a recognised qualification when granted in or after October, 1994)
Diploma in Medical Radio Diagnosis	D.M.R.D. (This shall be a recognised qualification when granted in or after 1985)"

(5) against the University of Gujarat in column (2), after the entry 'Doctor of Medicine (T.B.) and Chest Diseases)', and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Doctor of Medicine (Psychiatry)	M.D. (Psychiatry) (This shall be a recognised qualification when granted in or after October, 1979)".

(6) against the 'Goa University' in Column (2), after the entry 'Diploma in Anaesthesiology' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Doctor of Medicine (Microbiology)	M.D. (Micro) (This shall be a recognised qualification when granted in or after July, 1989)".

(7) against the 'Karnataka University' in column (2), after the entry 'Doctor of Medicine (Pathology)' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Doctor of Medicine (Community Medicine)	M.D. (Community Medicine) (This shall be a recognised qualification when granted in or after August, 1990)
Diploma in Public Health	D.P.H. (This shall be a recognised qualification when granted in or after Feb., 1991)

(8) against the 'Manipal University' in column (2), after the entry 'Doctor of Medicine (Biochemistry)' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Master of Surgery (Orthopaedics)	M.S. (Ortho)
	(This shall be a recognised qualification when granted in or after July, 1996)
Doctor of Medicine (Psychiatry)	M.D. (Psychiatry)
	(This shall be a recognised qualification when granted in or after January, 1998)"

(9) against the 'Mecrut University', in column (2) after the entry 'Master of Surgery (Ophthalmology)' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Diploma in Obstetrics & Gynaecology	D.G.O.
	(This shall be a recognised qualification when granted in or after December, 1974)"

(10) against the 'Ch. Charan Singh University' in column (2) after the entry 'Master of Surgery (Ophthalmology)' and the entry relating thereto in column (3), the following shall be inserted, namely :

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Diploma in Obstetrics and Gynaecology.	D.G.O.
	(This shall be a recognised qualification when granted in or after December, 1974)",

(11) against the 'Manipal Academy of Higher Education', in column (2) after the entry 'Doctor of Medicine (Pharmacology)' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Doctor of Medicine (Hospital Administration)	M.D. (Hospital Administration)
	(This shall be a recognised qualification when granted in or after June, 1990)
Diploma in Dermatology including Venereal Diseases and Leprosy	D.V.D.
	(This shall be a recognised qualification when granted in or after June, 1976)"

(12) against the 'University of Punjab' in column (2) after the entry 'Doctor of Medicine (Radio-diagnosis)' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Doctor of Medicine (Dermatology, Venerology and Leprosy)	M.D. (Dermatology, Venerology and Leprosy) (This shall be a recognised qualification when granted in or after December, 1985)",

(13) against the 'Pondicherry University' in column (2), after the entry 'Doctor of Medicine (Physiology)' and the entry relating thereto in column (3), the following shall be inserted namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Doctor of Medicine (Psychiatry)	M.D. (Psychiatry) (This shall be a recognised qualification when granted in or after March, 1993)",

(14) against the 'Saurashtra University' in column (2) after the entry 'Diploma in Ophthalmology' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Master of Surgery (Anatomy)	M.S. (Anatomy) (This shall be a recognised qualification when granted in or after 1976)",

(15) against the 'Shivaji University', in column (2) after the entry 'Doctor of Medicine (Pharmacology)' and the entry relating thereto in column (3) the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Doctor of Medicine (Preventive and Social Medicine)	M.D. (PSM) (This shall be a recognised qualification when granted in or after December, 1993)",

(16) against the 'Mangalore University', in column (2), after the entry 'Doctor of Medicine (Skin and V.D.)' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Diploma in Dermatology, including Venereal Diseases and Leprosy	D.V.D. (This shall be a recognised qualification when granted in or after June, 1976)",

(17) against the 'Guru Nanak Dev University' in column (2), after the entry 'Doctor of Medicine (Biochemistry)' and the entry relating thereto in column (3), the following shall be inserted, namely :—

Recognised Medical Qualification

Abbreviation for Registration

(2)

(3)

"Doctor of Medicine (Radio Diagnosis)

M.D. (Radio-Diagnosis)

(This shall be a recognised qualification when granted in or after June, 1976)".

[No. V.11015/16/98-ME/(UG)]

S. K. MISHRA, Desk Officer

नई दिल्ली, 26 फरवरी, 1999

New Delhi, the 26th February, 1999

का. आ. 787.—जबकि भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) के खण्ड (ख) के अनुसरण में, डा. पी. के. डेका, प्रिंसिपल, गुवाहाटी मेडिकल कॉलेज, गुवाहाटी को 29-12-98 को गुवाहाटी विश्वविद्यालय सभा द्वारा 7-1-99 से भारतीय आयुर्विज्ञान परिषद् के एक सदस्य के रूप में निर्वाचित किया गया है।

अतः अब उक्त अधिनियम की धारा 3 की उपधारा (1) के अनुसरण में केन्द्र सरकार एतद्द्वारा 9 जनवरी, 1960 की का. आ. संख्या 138 के द्वारा प्रकाशित भारत सरकार के पूर्ववर्ती स्वास्थ्य मंत्रालय की अधिसूचना में निम्नलिखित और संशोधन करती है; नामतः

उक्त अधिसूचना में "धारा 3 की उपधारा (1) के खण्ड (ख) के अधीन निर्वाचित" शीर्षक के अधीन क्रम संख्या 64 और उससे संबंधित प्रविष्टियों के स्थान पर निम्नलिखित क्रम संख्या और प्रविष्टियां प्रतिस्थापित की जाएंगी, नामतः

"15. डा. पी. के. डेका, गुवाहाटी विश्वविद्यालय"
प्रिंसिपल,
गुवाहाटी मेडिकल कॉलेज,
गुवाहाटी-781032.

[सं. वी. 11013/3/99-एम ई (यू जी)]
एस. के. मिश्रा, डेस्क अधिकारी

S.O. 787.—Whereas in pursuance of clause (b) of sub-section (1), section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Dr. P. K. Deka, Principal, Gauhati Medical College, Guwahati has been elected by the Court of Gauhati University on 29th December, 1998 to be a member of Medical Council of India with effect from 7th January, 1999;

Now, therefore, in pursuance of sub-section (1) of section 3 of the said Act, the Central Government hereby makes the following further amendments in the notification of the Government of India in the erstwhile Ministry of Health number S.O. 138, dated the 9th January, 1960, namely :—

In the said notification under the heading "Elected under clause (b) of sub-section (1) of section 3" for serial number 15 and the entries relating thereto, the following serial number and entries shall be substituted, namely :—

"15. Dr. P. K. Deka, Gauhati University",
Principal,
Gauhati Medical College,
Gauhati-781032.

[No. V. 11013/3/99-ME(UG)]
S. K. MISHRA, Desk Officer

पाद टिप्पण :—मुख्य अधिसूचना भारत के राजपत्र में दिनांक 9 जनवरी, 1960 की अधिसूचना संख्या का. आ. 138 के द्वारा प्रकाशित की गई थी।

Footnote :—The Principal notification was published in the Gazette of India, vide notification number S.O. 138, dated the 9th January, 1960.

नई दिल्ली, 23 फरवरी, 1999

का. आ. 788.—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात्, उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित संशोधन करती है, अर्थात् :—

उक्त प्रथम अनुसूची में,

(1) “ए. पी. सिंह विश्वविद्यालय” के सामने “मान्यताप्राप्त आयुर्विज्ञान अर्हता” के स्तंभ में [जिसे इसमें इसके पश्चात् स्तंभ (2) कहा गया है] मास्टर आफ सर्जरी (सामान्य शल्य विज्ञान) और उससे सम्बन्धित प्रविष्टि “रजिस्ट्रीकरण के लिए संक्षेपाक्षर” के स्तंभ में (जिसे इसमें इसके पश्चात् स्तंभ 3 कहा गया है) के पश्चात् निम्नलिखित रखा जाएगा अर्थात् :—

मान्यताप्राप्त आयुर्विज्ञान अर्हता

रजिस्ट्रीकरण के लिए संक्षेपाक्षर

2

3

“डाक्टर आफ मेडिसिन (बाल चिकित्सा)

एम. डी. (बाल चिकित्सा)

(यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब वह मार्च, 1971 में या उसके पश्चात् प्रदान की गई हो)

डिप्लोमा इन चाइल्ड हैल्थ

डी. सी. एच.

यह मान्यताप्राप्त अर्हता तब होगी जब इसे मार्च, 1980 में या इसके पश्चात् प्रदान की गई हो। ”

(2) “मुम्बई विश्वविद्यालय” के सामने स्तंभ (2) में “डाक्टर आफ मेडिसिन (प्रसूति और स्त्री रोग विज्ञान) प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2

3

“डाक्टर आफ मेडिसिन
(हृदय रोग विज्ञान)

डी. एम. (हृदय रोग विज्ञान)

(यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे अप्रैल, 1983 में, या उसके पश्चात् की गई हो। ”

3. “कलकत्ता विश्वविद्यालय” के सामने स्तंभ (2) में “डिप्लोमा इन ओटो नेरिंगोलाजी” और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात्, निम्नलिखित रखा जाएगा, अर्थात् :—

2

3

“मजिस्ट्रार चिरुरी
(हृदय-वक्ष शल्य विज्ञान)

एम. सी. एच. (हृदय-वक्ष शल्य विज्ञान)

(यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब 1972 में या इसके पश्चात् प्रदान की गई हो) ;

4. “कालीकट विश्वविद्यालय” के सामने स्तंभ (2) में, डाक्टर आफ मेडिसिन (जीव रसायन) प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2

3

“डाक्टर आफ मेडिसिन
(बाल चिकित्सा विज्ञान)

एम. डी. (बाल चिकित्सा विज्ञान)

(यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब वह फरवरी, 1979 में, या उसके पश्चात् प्रदान की गई हो)

5. "दिल्ली विश्वविद्यालय" के सामने स्तंभ (2) में, "डाक्टर आफ मेडिसिन (सनाधिज्ञान चिकित्सा)" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2	3
डाक्टर आफ मेडिसिन (सूक्ष्म जीव विज्ञान)	एम. डी. (सूक्ष्म जीव विज्ञान) (यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब वह जून, 1994 में या उसके पश्चात् प्रदान की गई हो।)

6. "गुजरात विश्वविद्यालय" के सामने स्तंभ (2) में "डाक्टर आफ मेडिसिन (यश्मा और वक्षरोग)", प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2	3
"मजिस्ट्रार चिकित्सी (जनन-मूत्रीय शल्य विज्ञान)	एम. सी. एच. (जनन-मूत्रीय शल्य विज्ञान) (यह मान्यताप्राप्त अर्हता आयुर्विज्ञान अर्हता तब होगी जब इसे सितम्बर, 1989 या उसके पश्चात् प्रदान की गई हो।)
डाक्टर आफ मेडिसिन (शरीर क्रिया विज्ञान)	एम. डी. (शरीर-क्रिया विज्ञान) (यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे अप्रैल, 1973 में या इसके पश्चात् प्रदान की गई हो।)
मजिस्ट्रार चिकित्सी (तंत्रिका शल्य विज्ञान)	एम. सी. एच. (तंत्रिका शल्य विज्ञान) (यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे दिसम्बर, 1988 में या इसके पश्चात् प्रदान की गई हो।)"

7. "गुरुनानक देव विश्वविद्यालय" के सामने स्तंभ (2) में, डाक्टर आफ मेडिसिन (जीव रसायन) प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2	3
"डाक्टर आफ मेडिसिन (बाल चिकित्सा विज्ञान)	एम. डी. (बाल चिकित्सा विज्ञान) (यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे मार्च, 1971 में या इसके पश्चात् प्रदान की गई हो।)
डिप्लोमा इन चाइल्ड हैल्थ	डी. एच. सी. (यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे जनवरी, 1971 में या इसके पश्चात् प्रदान की गई हो।)"

8. "गोआ विश्वविद्यालय" के सामने स्तंभ (2) में "डिप्लोमा इन एंथ्रोपोजेनेसिस" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2	3
"डाक्टर आफ मेडिसिन (जीव रसायन)	एम. डी. (जीव रसायन) (यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे फरवरी 1992 में या उसके पश्चात् प्रदान की गई हो।)"

9. "जीवाजी विश्वविद्यालय" के सामने स्तंभ (2) में "डिप्लोमा इन ओपथलमोलॉजी" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2	3
"डाक्टर आफ मेडिसिन (विकरण विज्ञान)	एम. डी. (विकरण विज्ञान) (यह मान्यता प्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे 1967 में या उसके पश्चात् प्रदान की गई हो) ।
डाक्टर आफ मेडिसिन (विकरण निदान)	एम. डी. (विकरण निदान) (यह मान्यता प्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे जुलाई, 1996 में या इसके पश्चात् प्रदान की गई हो) "

10. "कुवेंपु विश्वविद्यालय" कर्नाटक के सामने स्तंभ (2) में "डाक्टर आफ मेडिसिन (जीव रसायन)" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2	3
"मास्टर आफ सर्जरी (नेत्र विज्ञान)	एम. एस. (नेत्र विज्ञान) (यह मान्यता प्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे जनवरी, 1979 या इसके पश्चात् प्रदान की गई हो) "

11. "डा. एम. जी. आर. आयुर्विज्ञान विश्वविद्यालय" मद्रास के सामने स्तंभ (2) "डाक्टर आफ मेडिसिन (सूक्ष्म जीव विज्ञान)" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2	3
"डाक्टर आफ मेडिसिन (वृक्ष विज्ञान)	डी. एम. (वृक्ष विज्ञान) (यह मान्यता प्राप्त आयुर्विज्ञान अर्हता तब होगी, जब इसे अप्रैल, 1977 में या उसके पश्चात् प्रदान की गई हो) "

12. "मणिपुर विश्वविद्यालय" के सामने स्तंभ (2) में "डाक्टर आफ मेडिसिन (जीव रसायन)" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2	3
"मास्टर आफ सर्जरी (नेत्र विज्ञान)	एम. एस. (नेत्र विज्ञान) (यह मान्यता प्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे जुलाई, 1995 में या उसके पश्चात् प्रदान की गई हो) "

13. "मणिपाल अकादमी आफ हायर एजुकेशन" के सामने स्तंभ (2) में "डिप्लोमा इन डिमेट्रोलाजी एण्ड वेना-ट्रोलॉजी" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

2	3
"डाक्टर आफ मेडिसिन (शरीर क्रिया विज्ञान)	एम. डी. (शरीर क्रिया विज्ञान) (यह मान्यता प्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे जुलाई, 1981 में या उसके पश्चात् प्रदान की गई हो) "

14. "मैसूर विश्वविद्यालय" के नाम से स्तंभ (2) में, "डिप्लोमा इन क्लीनिकल पैथोलॉजी" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

2

3

"मास्टर आफ सर्जरी
(नेत्र विज्ञान)

एम. एस. (नेत्र विज्ञान)
(यह मान्यता प्राप्त आयुर्विज्ञान ग्रहता तब होगी जब इसे
जनवरी, 1979 में या उसके पश्चात् प्रदान की गई हो)"

15. "नागपुर विश्वविद्यालय" के नाम से स्तंभ (2) में "डॉक्टर आफ मेडिसिन (बाण चिकित्सा)" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

2

3

"डॉक्टर आफ मेडिसिन
(जीव रसायन)

एम. डी. (जीव रसायन)
(यह मान्यता प्राप्त आयुर्विज्ञान ग्रहता तब होगी जब इसे
मार्च, 1980 या उसके पश्चात् प्रदान की गई हो)"

16. "मिजाम आयुर्विज्ञान संस्थान" के नाम से स्तंभ (2) में "डॉक्टर आफ मेडिसिन (काननायक आयुर्विज्ञान)" प्रविष्टि और इससे सम्बन्धित प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

2

3

"मास्टर आफ सर्जरी
(विकलांग विज्ञान)

एम. एस. (विकलांग विज्ञान)
(यह मान्यता प्राप्त आयुर्विज्ञान ग्रहता तब होगी जब इसे
जनवरी, 1994 में या उसके पश्चात् प्रदान की गई
हो)"

17. "पंजाब विश्वविद्यालय" के नाम से स्तंभ (2) में "डॉक्टर आफ मेडिसिन (चिकित्सा विज्ञान)" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) में प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

2

3

"डिप्लोमा इन ब्लड ट्रान्सफ्यूजन

डी. आई. बी. टी.

(यह मान्यता प्राप्त आयुर्विज्ञान ग्रहता तब होगी जब इसे
उन छात्रों को प्रदान किया गया हो जिन्होंने बी.बी.बी.
एम ई.आर. संदीप में 1986-87 तक प्रवेश किया हो)"

18. "मंजय गांधी स्नातकोत्तर संस्थान, लखनऊ" के नाम से स्तंभ (2) में "डॉक्टर आफ मेडिसिन" (कुक्क चिकित्सा) प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

2

3

"मास्टर आफ चिकित्सा (भूत विज्ञान)

एम. सी. एच. (भूत विज्ञान)
(यह मान्यता प्राप्त आयुर्विज्ञान ग्रहता तब होगी जब इसे,
जुलाई, 1991 में या उसके पश्चात् प्रदान की गई हो)"

19. "शिवाजी विश्वविद्यालय" के सामने स्तंभ (2) में डाक्टर आफ मेडिसिन (भेपजगुण विज्ञान) प्रविष्टि, और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

(2)	(3)
"डाक्टर आफ मेडिसिन (विकरण निदान)	एम. डी. (विकरण निदान) (यह मान्यता प्राप्त अर्हता आयुर्विज्ञान अर्हता तब होगी जब इसे, अप्रैल, 1994 या उसके पश्चात् प्रदान की गई हो) :
डिप्लोमा इन मेडिसिन (विकरण निदान)	डी. एम. आर. डी. (यह मान्यताप्राप्त आयुर्विज्ञान अर्हता तब होगी जब इसे अप्रैल, 1994 में या उसके पश्चात् प्रदान की गई हो) "

[सं. वी.-11015/2/98-एम. एफ (यू. जी)]
एस. के. मिश्रा, डैस्क अधिकारी

ew Delhi, the 23rd February, 1999

S. O. 788.—In exercise of the powers conferred by Sub-Section (2), of Section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government after consulting the Medical Council of India makes the following further amendments in the First Schedule to the said Act, namely :—

In the said First Schedule :—

(1) against the "A.P. Singh University" in the column "Recognised Medical Qualification" [(hereinafter referred to as column (2)], after the entry Master of Surgery (General Surgery) and the entry relating thereto in the column (3) Abbreviation for Registration] herein after referred to as column (3),] the following shall be inserted, namely :—

Recognised Medical Qualification	Abbreviation for Registration
(2)	(3)
"Doctor of Medicine (Paediatrics)	M. D. (Paediatrics) (This shall be a recognised medical qualification when granted in or after March, 1971)
Diploma in Child Health	D. C. H. (This shall be a recognised medical qualification when granted in or after March, 1980),"

(2) against the "University of Bombay" in column (2), after the entry "Doctor of Medicine" (Obstetrics & Gynaec.) and then entry relating thereto in column (3), the following shall be inserted, namely :—

(2)	(3)
"Doctor of Medicine (Cardiology)	D. M. (Cardiology) (This shall be a recognised medical qualification when granted in or after April, 1983)."

(3) against the "University of Calcutta" in column (2), after the entry "Diploma in Oto-Rhino Laryngology" and the entry relating thereto in column (3), the following shall be inserted, namely :—

(2)	(3)
"Magistrar Chirurgiae (Cardio-thoracic Surgery)	M. Ch. (Cardio-thoracic Surgery). (This shall be a recognised medical qualification when granted in or after 1972)."

(4) against the "Calicut University" in column (2), after the entry "Doctor of Medicine (Biochemistry)" and the entry relating thereto in column (3), the following shall be inserted, namely :—

(2)	(3)
"Doctor of Medicine (Paediatrics)	M. D. (Paediatrics) (This shall be a recognised medical qualification when granted in or after Feb., 1979)."

(5) against the "University of Delhi" in column (2), after the entry "Doctor of Medicine (Psychiatry) and the entry relating thereto in column (3), the following shall be inserted, namely :—

(2)	(3)
"Doctor of Medicine (Microbiology)	M. D. (Microbiology) (This shall be a recognised medical qualification when granted in or after June, 1994)."

(6) against the column "Gujarat University" in column (2), after the entry "Doctor of Medicine" (T.B. & Chest Diseases) and the entry relating thereto in column (3) the following shall be inserted, namely :—

(2)	(3)
"Magistrar Chirurgiae (Genito-Urinary Surgery)	M. Ch. (Genito-Urinary Surgery) (This shall be a recognised medical qualification when granted in or after Sept., 1989)
Doctor of Medicine (Physiology)	M.D. (Physiology). (This shall be a recognised medical qualification when granted in or after April, 1973)
Magistrar Chirurgiae (Neuro-Surgery)	M. Ch. (Neuro-Surgery) (This shall be a recognised medical qualification when granted in or after Dec., 1988)."

(7) against the column "Guru Nanak Dev University" in column (2), after the entry "Doctor of Medicine" (Biochemistry) and the entry relating thereto in column (3) the following shall be inserted, namely :—

(2)	(3)
"Doctor of Medicine (Paediatrics)	M. D. (Paediatrics) (This shall be a recognised medical qualification when granted in or after March, 1971).
Diploma in Child Health	D. C. H. (This shall be a recognised medical qualification when granted in or after Jan., 1971)."

(8) against the "Goa University" in column (2), after the entry Diploma in Anaesthesiology and the entry relating thereto in column (3), the following shall be inserted, namely :—

(2)	(3)
"Doctor of Medicine (Biochemistry)	M. D. (Biochemistry) (This shall be a recognised medical qualification when granted in or after Feb., 1992)."

(9) against the "Jiwaji University" in column (2), after the entry Diploma in Ophthalmology and the entry relating thereto in column (3), the following shall be inserted, namely :—

(2)	(3)
"Doctor of Medicine (Radiology)	M. D. (Radiology) (This shall be a recognised medical qualification when granted in or after 1967)
Doctor of Medicine (Radio-diagnosis)	M. D. (Radiodiagnosis) (This shall be a recognised medical qualification when granted in or after July, 1996)."

(10) against the "Kuvempu University" Karnataka, in column (2), after the entry Doctor of Medicine (Biochemistry) and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Master of Surgery (Ophthalmology)"	M. S. (Ophthalmology) (This shall be a recognised medical qualification when granted in or after Jan., 1979)."

(11) against the "Dr. M.G.R. Medical University, Madras", in column (2), after the entry "Doctor of Medicine (Microbiology)" and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Doctor of Medicine (Nephrology)"	D. M. (Nephrology) (This shall be a recognised medical qualification when granted in or after April, 1977)."

(12) against the "Manipur University" in column (2), after the entry "Doctor of Medicine (Biochemistry)" and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Master of Surgery (Ophthalmology)"	M. S. (Ophthalmology) (This shall be a recognised medical qualification when granted in or after July, 1995)."

(13) against the "Manipal Academy of Higher Education" in column (2), after the entry "Diploma in Dermatology & Venereology" and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Doctor of Medicine (Physiology)"	M. D. (Physiology) (This shall be a recognised medical qualification when granted in or after July, 1981)."

(14) against the "University of Mysore" in column (2), after the entry "Diploma in Clinical Pathology", and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Master of Surgery (Ophthalmology)"	M. S. (Ophthalmology) (This shall be a recognised medical qualification when granted in or after Jan., 1979)."

(15) against the "University of Nagpur" in column (2), after the entry "Doctor of Medicine (Paediatrics)" and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Doctor of Medicine (Biochemistry)"	M. D. (Biochemistry) (This shall be a recognised medical qualification when granted in or after April, 1980)."

(16) against the "Nizam's Institute of Medical Sciences, Hyderabad" in column (2), after the entry "Doctor of Medicine (General Medicine)" and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Master of Surgery (Orthopaedics)"	M. S. (Ortho.) (This shall be a recognised medical qualification when granted in or after Jan., 1994)."

(17) against the "University of Punjab" in column (2), after the entry "Doctor of Medicine (Radio-diagnosis)" and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Diploma in Blood Transfusion	D.I.B.T. (This shall be a recognised medical qualification when granted to students upto admissions made in 1996-97 at PGIMER, Chandigarh)."

(18) against the "Sanjay Gandhi Postgraduate Institute, Lucknow", in column (2) after the entry "Doctor of Medicine (Nephrology)" and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Magistrar Chirurgiae (Urology)"	M.Ch. (Urology) (This shall be a recognised medical qualification when granted in or after July, 1991)."

(19) against the "Shivaji University", in column (2), after the entry "Doctor of Medicine (Pharmacology)" and the entry relating thereto in column (3), the following shall be inserted, namely:—

(2)	(3)
"Doctor of Medicine (Radio-diagnosis)"	M.D. (Radio-diagnosis) (This shall be a recognised medical qualification when granted in or after April, 1994)."
Diploma in Medical Radio-diagnosis	D.M.R.D. (This shall be a recognised medical qualification when granted in or after April, 1994)."

[No.V.11015/2/98-ME(UG)]

S. K. MISHRA, Desk Officer

नई दिल्ली, 3 मार्च, 1999

का. आ. 789:—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारतीय आयुर्विज्ञान परिषद् से परामर्श के पश्चात्, उक्त अधिनियम की प्रथम अनुसूची में निम्नलिखित संशोधन करती है, अर्थात्:—

1. "असखीर विश्वविद्यालय" के सङ्गने "मान्यता प्राप्त आयुर्विज्ञान अर्हता" के स्तंभ (जिसे इसमें इसके पश्चात् स्तंभ (2) कहा गया है) "डिप्लोमा इन बैक्टीरियोलॉजी" प्रविष्टि और उससे संबंधित "रजिस्ट्रीकरण के लिए संश्लेषाक्षर" के स्तंभ में जिसे इसमें इसके पश्चात् स्तंभ (3) कहा गया है की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

मान्यता प्राप्त आयुर्विज्ञान अर्हता

रजिस्ट्रीकरण के लिए संश्लेषाक्षर

2	3
"डाक्टर आफ मेडिसिन (स्वच्छा विज्ञान)"	एम. डी. (स्वच्छा विज्ञान) (यह मान्यताप्राप्त अर्हता तब होगी जब वह 1987 या उसके पश्चात् प्रदान की गई हो)
डिप्लोमा इन विभिन्न डिजीजेस	डी. बी. डी. (यह मान्यताप्राप्त अर्हता तब होगी जब वह 1980 में या इसके पश्चात् प्रदान की गई हो)
डाक्टर आफ मेडिसिन (जीव रसायन)	एम. डी. (जीव रसायन) (यह मान्यताप्राप्त अर्हता तब होगी जब इसे अक्टूबर, 1992 में या इसके पश्चात् प्रदान की गई हो)

(2)

(3)

डाक्टर आफ मेडिसिन
(अर्बुद विद्या आयुर्विज्ञान)

एम. डी.
(अर्बुद विद्या आयुर्विज्ञान)
(यह मान्यता प्राप्त अर्हता तब होगी जब इसे अक्टूबर, 1991 में या इसके पश्चात् प्रदान की गई हो ।)

डाक्टर आफ मेडिसिन
(न्याय संबंधी आयुर्विज्ञान)

एम. डी. (न्याय संबंधी आयुर्विज्ञान)
(यह मान्यता प्राप्त अर्हता तब होगी जब इसे 1976 में या इसके पश्चात् प्रदान की गई हो) ”

2. “ मैसूर विश्वविद्यालय ” के सामने “ मान्यताप्राप्त आयुर्विज्ञान अर्हता ” डिप्लोमा इन क्लीनिकल पैथोलॉजी ” “ रजिस्ट्रीकरण के लिए संक्षेपाक्षर ” कालम में “ 1992 में या उसके पश्चात् ” शब्दों और अक्षरों के स्थान पर “ जनवरी, 1985 या उसके पश्चात् ” शब्द या अक्षर रखे जाएंगे।

3. “ मनीपाल अकादमी आफ हायर एजुकेशन ” के सामने स्तंभ (2) में “ डिप्लोमा इन डिमॉटोलॉजी एण्ड बिनिग्न डिस्सीजस एण्ड लिप्रोसी ” और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता

रजिस्ट्रीकरण के लिए संक्षेपाक्षर

2

3

“ मास्टर आफ सर्जरी
(शरीर रचना विज्ञान)

एम. एस. (शरीर रचना विज्ञान)
(यह मान्यता प्राप्त अर्हता तब होगी जब इसे 1993 में या उसके पश्चात् प्रदान की गई हो)

डाक्टर आफ मेडिसिन
(मनोविकार चिकित्सा)

एम. डी. (मनोविकार चिकित्सा)
(यह मान्यता प्राप्त अर्हता तब होगी जब इसे जून, 1987 में या इसके पश्चात् प्रदान की गई हो ।)

डिप्लोमा इन साइकोलॉजिकल मेडिसिन

डी. पी. एम.
(यह मान्यता प्राप्त अर्हता तब होगी जब इसे दिसम्बर, 1980 में या इसके पश्चात् प्रदान की गई हो ।)

डाक्टर आफ मेडिसिन
(त्वचा और रतिजन्य रोग)

एम. डी. (त्वचा और रतिजन्य रोग)
(यह मान्यता प्राप्त अर्हता तब होगी जब इसे जून, 1987 में या इसके पश्चात् प्रदान की गई हो) ”

4. “ मद्रास विश्वविद्यालय ” के सामने स्तंभ (2) डाक्टर आफ मेडिसिन “ विकृति विज्ञान ” प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात् :—

मान्यता प्राप्त आयुर्विज्ञान अर्हता

रजिस्ट्रीकरण के लिए संक्षेपाक्षर

2

3

“ डाक्टर आफ मेडिसिन
(मनोविकार चिकित्सा)

एम. डी. (मनोविकार चिकित्सा)
(यह मान्यता प्राप्त अर्हता तब होगी जब इसे, 1976 या इसके पश्चात् प्रदान की गई हो) ”

5. "डा. एम. जी. आर. विश्वविद्यालय" के सामने, स्तंभ (2) में, "डाक्टर आफ मेडिसिन (वृक्क विज्ञान)" प्रविष्टि और उससे सम्बन्धित स्तंभ (3) की प्रविष्टि के पश्चात् निम्नलिखित रखा जाएगा, अर्थात्:—

मान्यता प्राप्त आयुर्विज्ञान ग्रहणता

रजिस्ट्रीकरण के लिए संक्षेपाक्षर

2

3

"डाक्टर आफ मेडिसिन
(मनोविकार चिकित्सा)

एम. डी. (मनोविकार चिकित्सा)
(यह मान्यता प्राप्त ग्रहणता तब होगी जब इसे 1990 मार्च या
या इसके पश्चात् प्रदान की गई हो)";

[सं. पी. 11015/7/98-एम ईयूजी]

एस. के. मिश्रा, डैस्क अधिकारी

New Delhi, the 3rd March, 1999

-S.O.789.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

1. against the 'Bangalore University', in the column 'Recognised Medical Qualification, (hereinafter referred to as column (2), after the entry "Diploma in Bacteriology" and the entry relating thereto in the column 'Abbreviation for Registration' hereinafter referred as column (3), the following shall be substituted, namely:—

Recognised Medical Qualification (2)	Abbreviation for Registration (3)
"Doctor of Medicine (Dermatology)	M.D. (Dermatology) (This shall be a recognised qualification when granted in or after 1987).
Diploma in Venereal Diseases	D.V.D. (This shall be a recognised qualification when granted in or after 1980).
Doctor of Medicine (Biochemistry)	M.D. (Biochemistry) (This shall be a recognised qualification when granted in or after 1992).
Doctor of Medicine (Medical Oncology)	D.M. (Medical Oncology) (This shall be a recognised qualification when granted in or after October, 1991).
Doctor of Medicine (Forensic Medicine)	M.D. (Forensic Medicine) (This shall be a recognised qualification when granted in or after 1976)"

(2) against the 'Mysore University', against the Recognised Medical Qualification "Diploma in Clinical Pathology" in the column 'Abbreviation for Registration' for the words and figures "on or, after 1992", the words and figures "in or after January, 1985" shall be substituted.

(3) against the 'Manipal Academy of Higher Education', in column (2), after the entry "Doctor of Medicine (Pharmacology)" and the entry relating thereto in column (3), the following shall be substituted, namely:—

Recognised Medical Qualification (2)	Abbreviation for Registration (3)
"Master of Surgery (Anatomy)	M.S. (Anatomy) (This shall be a recognised qualification when granted in or after 1993).
Doctor of Medicine (Psychiatry)	M.D. (Psychiatry) (This shall be a recognised qualification when granted in or after June, 1987)

"Diploma in Psychological
Medicine

D.P.M.

(This shall be a recognised qualification when granted in or after December, 1989).

Diploma in Medicine
(Skin and Venereal Diseases)

M.D. (Skin and V.D.)

(This shall be a recognised qualification when granted in or after June, 1987);

(4) against the 'University of Madras', in the column (2) after the entry "Doctor of Medicine (Microbiology)" and the entry relating thereto in column (3), the following shall be inserted, namely:—

Recognised Medical Qualification (2)	Abbreviation for Registration (3)
"Doctor of Medicine (Psychiatry)	M.D. (Psychiatry) (This shall be a recognised qualification when granted in or after 1976);

(5) against the 'Dr. M.G.R. University', in column (2), after the entry "Doctor of Medicine (Microbiology)" and the entry relating thereto in column (3), the following shall be inserted, namely:—

Recognised Medical Qualification (2)	Abbreviation for Registration (3)
"Doctor of Medicine (Psychiatry)	M.D. (Psychiatry) (This shall be a recognised qualification when granted in or after March, 1990);

[No. V-11015/7/98-ME(UG)]

S. K. MISHRA, Desk Officer

नई दिल्ली, 4 मार्च, 1999

का. धा. 790.—जबकि भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 3 की उपधारा (1) के खण्ड (ख) के उपबंध के अनुसरण में डा. बी. के. सरकार, प्रिंसिपल, नार्थ बंगाल मेडिकल कॉलेज, सिलीगुड़ी को नार्थ बंगाल विश्वविद्यालय सभा द्वारा 10 दिसम्बर, 1998 में भारतीय आयुर्विज्ञान परिषद के एक सर्वस्य के रूप में निर्वाचित किया गया है।

अतः अब उक्त अधिनियम की धारा 3 की उपधारा (1) के अनुसरण में केन्द्र सरकार एतद्द्वारा 9 जनवरी, 1960 की का. धा. संख्या 138 के द्वारा प्रकाशित भारत सरकार के पूर्ववर्ती स्वास्थ्य मंत्रालय की अधिसूचना में निम्नलिखित और संशोधन करती है; नामतः

उक्त अधिसूचना में "धारा 3 की उपधारा (1) के खण्ड (ख) के अधीन निर्वाचित" शीर्षक के अधीन क्रम संख्या 64 और उसमें संबंधित प्रविष्टियों के स्वात पर निम्नलिखित क्रम संख्या और प्रविष्टियां प्रतिस्थापित की जाएंगी, नामतः

"64. डा. बी. के. सरकार, नार्थ बंगाल विश्वविद्यालय प्रिंसिपल, नार्थ बंगाल मेडिकल कॉलेज, सिलीगुड़ी"

पाद टिप्पण :—मुख्य अधिसूचना भारत के राजपत्र में दिनांक 9 जनवरी, 1960 की का. धा. संख्या 138 के द्वारा प्रकाशित की गई थी।

New Delhi, the 4th March, 1999

S.O. 790.—Whereas in pursuance of provision of Clause (b) of sub-section 1 of Section 3 of the Indian Medical Council Act, 1956 (102 of 1956) Dr. B. K. Sarkar, Principal, North Bengal Medical College, Siliguri has been elected by the court of the North Bengal University to be a member of Medical Council of India from 10th December, 1998.

Now, therefore, in pursuance of sub-section (1) of Section 3 of the said Act, the Central Government hereby makes the following further amendment in the notification of the Government of India in the erst-while Ministry of Health published vide S.O. 138, dated the 9th January, 1960, namely:—

In the said notification, under the heading 'Elected under Clause (b), of sub-section (1) of section 3, for serial number 64 and the entries relating thereto, the following serial number and entries shall be substituted, namely:—

'64. Dr. B. K. Sarkar North Bengal University Principal, North Bengal Medical College, Siliguri.

[No. V-11013/5/99-ME(UG)]

S. K. MISHRA, Desk Officer

[सं. बी. 11013/5/99-एम ई. (यू जी)]
एस. के. मिश्रा, उक्त अधिकारी

Footnote :—The principal notification was published in the Gazette of India vide S.O. 138, dated the 9th January, 1960.

शहरी कार्य और रोजगार मंत्रालय

(सम्पदा निदेशालय)

नई दिल्ली, 22 फरवरी, 1999

का. प्रा. 791.—केन्द्रीय सरकार, सरकारी स्थान (अप्रामाणिक अधिभोगियों की सेवकाली) अधिनियम, 1971 (1971 का 40) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नीचे दी गई सारणी के स्तंभ (1) में उल्लिखित अधिकारियों का, जो सरकार के राजपत्रित अधिकारी हैं, उक्त अधिनियम के प्रयोजन के लिए सम्पदा अधिकारी नियुक्त करती है, जो उक्त सारणी के स्तंभ (2) में निनिर्दिष्ट सरकारी स्थानों की वास्तु अपनी-अपनी अधिकारिता की स्थानीय सीमाओं के भीतर उक्त अधिनियम द्वारा या उसके अधीन सम्पदा अधिकारियों को प्रदत्त शक्तियों का प्रयोग और उन पर अधिरोषित कर्तव्यों का पालन करेंगे।

सारणी

अधिकारी का पदनाम और अधि- सरकारी स्थानों के प्रवर्ग
कारिता की सीमाएं और अधिकारिता की स्थानीय सीमाएं

1	2
1. कार्यपालक इंजीनियर, मैसूर केन्द्रीय प्रभाग, केन्द्रीय लोक निर्माण विभाग, मैसूर।	केन्द्रीय सरकार के स्वामित्वाधीन या नियंत्रणाधीन मैसूर स्थित सभी पूल बास भविष्य
2. कार्यपालक इंजीनियर, त्रिवेन्द्रम केन्द्रीय प्रभाग, केन्द्रीय लोक निर्माण विभाग, त्रिवेन्द्रम।	केन्द्रीय सरकार के स्वामित्वाधीन या नियंत्रणाधीन त्रिवेन्द्रम स्थित सभी पूल बास भविष्य

[फा. सं. 11013/टी/ 1/98-पीओएल-I]

आर. डी. साहाय, उप निदेशक, सम्पदा

MINISTRY OF URBAN AFFAIRS AND
EMPLOYMENT

(Directorate of Estates)

New Delhi, the 22nd February, 1999

S.O. 791.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971), the Central Government hereby appoints the officers mentioned in column (1) of the Table below, being Gazetted Officers of Government to be Estate Officers for the purposes of the said Act who shall exercise the powers conferred and perform the duties imposed on the Estate Officers by or under the said Act, within the local limits of their respective jurisdiction

in respect of the public premises specified in column (2) of the said Table.

TABLE

Designation of the officer and limits of jurisdiction	Category of Public Premises and local limits of jurisdiction
1	2
1. The Executive Engineer Mysore Central Division Central Public Works Department, Mysore	All General Pool residential accommodation at Mysore owned or controlled by Central Government.
2. The Executive Engineer Trivendrum Central Division Central Public Works Department, Trivendrum	All General Pool residential accommodation at Trivendrum owned or controlled by Central Government

[File No. 11013/T/1/98-Pol. I]

R.D. SAHAY, Dy. Director of Estates

संचार मंत्रालय

(दूरसंचार विभाग)

नई दिल्ली, 9 मार्च, 1999

का.प्रा. 792.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10(4) के अनुसरण में संचार मंत्रालय दूरसंचार विभाग के प्रामाणिक नियंत्रणाधीन निम्नलिखित कार्यालयों को जिनमें 89 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

मुख्य महाप्रबंधक दूरसंचार तिरुवनंतपुरम

1. दूरसंचार केन्द्र मिनीकोय
मुख्य महाप्रबंधक (अनु.) उत्तरी दूरसंचार क्षेत्र
किदवई भवन, नई दिल्ली
1. महा प्रबंधक दूर संचार (अनुरक्षण) लखनऊ
2. मंडल अभियन्ता (दूरस्थ), लखनऊ
3. मंडल अभियन्ता (सेटलाइट), लखनऊ
4. मंडल अभियन्ता (ओ. एफ. सी.), लखनऊ
5. मंडल अभियन्ता (माइक्रोवेव), बरेली
6. मंडल अभियन्ता (समाक्ष), बरेली
7. मंडल अभियन्ता (माइक्रोवेव), गोरखपुर
8. निदेशक दूरसंचार (अनुरक्षण), कानपुर
9. मंडल अभियन्ता (माइक्रोवेव), कानपुर
10. मंडल अभियन्ता (समाक्ष), कानपुर
11. मंडल अभियन्ता (माइक्रोवेव), आगरा

12. मंडल अभियन्ता (ओ. एफ. सी.), आगरा
13. मंडल अभियन्ता (माइक्रोवेव), झांसी
14. मंडल अभियन्ता (हूरस्थ), इलाहाबाद
15. मंडल अभियन्ता (माइक्रोवेव), वाराणसी

[सं. ई-11016/1/99-रा.भा.]

आर. डी. मासीवाल, निदेशक (राजभाषा)

MINISTRY OF COMMUNICATIONS

(Department of Telecommunications)

New Delhi, the 9th March, 1999

S.O. 792.—In pursuance of rule 10(4) of the official Language (use for official purposes of the Union), rules, 1976 the Central Government hereby notifies following offices under the administrative control of Ministry of Communications, Department of Telecommunications where of more than 80 per cent staff have acquired working knowledge of Hindi.

Chief General Manager Telecom. Trivandrum.

t. Telecom Centre Minicoy.

Chief General Manager (Maintenance) Northern Telecom Region, Kidwai Bhawan, New Delhi.

1. General Manager Telecom. (Maintenance), Lucknow
2. Divisional Engineer (Remote), Lucknow
3. Divisional Engineer (Satellite), Lucknow
4. Divisional Engineer (O.F.C.), Lucknow
5. Divisional Engineer (Microwave), Bareilly
6. Divisional Engineer (Coaxial), Bareilly
7. Divisional Engineer (Microwave), Gorakhpur
8. Director Telecom (Maintenance), Kanpur
9. Divisional Engineer (Microwave), Kanpur
10. Divisional Engineer (Coaxial), Kanpur
11. Divisional Engineer (Microwave), Agra
12. Divisional Engineer (O.F.C.), Agra
13. Divisional Engineer (Microwave), Jhansi
14. Divisional Engineer (Remote), Allahabad
15. Divisional Engineer (Microwave), Varanasi

[No. E-11016/1/99-O.I.]

R. D. MASIWAL, Director (O.L.)

दिल्ली विकास प्राधिकरण

(मुख्य योजना अनुभाग)

सार्वजनिक सूचना

नई दिल्ली, 16 मार्च, 1999

का.आ. 793.—केन्द्रीय सरकार का दिल्ली मुख्य योजना/क्षेत्रीय विकास योजना में निम्नलिखित संशोधन करने का प्रस्ताव है, जिसे एतद्वारा जनता की जानकारी के लिये एतद्वारा प्रकाशित किया जाता है। प्रस्तावित संशोधन के संबंध में यदि किसी व्यक्ति को कोई आपत्ति हो/कोई सुझाव देना हो तो वह व्यक्ति अपनी आपत्ति/सुझाव इस सूचना के जारी होने की तारीख से 30 दिनों की अवधि के अन्दर लिखित रूप में आयुक्त एवं सचिव, दिल्ली विकास प्राधिकरण, विकास भवन, "बी" ब्लॉक, आई.एन.ए., नई दिल्ली को भेज सकता है। आपत्ति करने/सुझाव देने वाला व्यक्ति अपना नाम और पता भी दें।

संशोधन :

"ग्रामीण उपयोग क्षेत्र और जॉन "जी" (पश्चिम दिल्ली-1) की क्षेत्रीय विकास योजना में पड़ने वाले और उत्तर पश्चिम में अम्बेडकर कालोनी से, उत्तर में उच्च ताप लाइन से, उत्तर-पूर्व में मौजूदा ग्रामीण सड़क से, दक्षिण-पूर्व में बिजवासन गांव मार्ग से और पश्चिम में बिजवासन गांव से घिरे बिजवासन गांव की राजस्व सम्पदा में खसरा नं. 31/13, 14, 15, 16, 17, 18, 23, 24, 25, 26, 32/11, 18, 19, 20, 21 और 22 [उप सचिव (एल.ए.) भूमि एवं भवन विभाग राष्ट्रीय राजधानी क्षेत्र दिल्ली सरकार द्वारा जारी अधिसूचना सं. एफ 7(35)/93 एल. एण्ड बी./एल.ए./7195 दिनांक 13-7-98 के अनुसार खसरा नं. 50/4, 5, 6, एवं 49/1, 2 मूल चार दिवारी में से निकाल दिए गए हैं] वाले लगभग 5.74 हेक्टेयर (14.20 एकड़) क्षेत्र के भूमि उपयोग को "ग्रामीण उपयोग जॉन" में "व्यावसायिक" (भांडागार एवं भंडारण) में परिवर्तित करने का प्रस्ताव है।

2. प्रस्तावित संशोधन को दशमि वाया नक्शा निरीक्षण के लिये उक्त अवधि के अन्दर सभी कार्य दिवसों को संयुक्त निदेशक कार्यालय, मुख्य योजना अनुभाग विकास मीनार, छठी मंजिल, आई.पी. स्टेट नई दिल्ली में उपलब्ध रहेगा।

[सं. एफ-20(12) 97-एम.पी.]

विश्व मोहन बंसल, आयुक्त एवं सचिव

DELHI DEVELOPMENT AUTHORITY

(Master Plan Section)

PUBLIC NOTICE

New Delhi, the 16th March, 1999

S.O. 793.—The following modification which the Central Government to make in the Master Plan/Zonal Development Plan for Delhi, is hereby published for public information. Any person having any objection/suggestion with respect to the proposed modification may send the objection/suggestion in writing to the Commissioner-cum-Secretary, Delhi Development Authority, Vikas Sadan, 'B' Block, INA, New Delhi, within a period of 30 days from the date of issue of this notice. The person making the objection/suggestion should also give his name and address.

MODIFICATIONS

"The land use of an area, measuring about 5.74 ha. 14.20 acres comprising the khasra nos. 31/13, 14, 15, 16, 17, 18, 23, 24, 25, 26, 32/11, 18, 19, 20, 21 and 22 in the revenue estate of village Bijwasan [The khasra nos. 50/4, 5, 6 & 49/1, 2 have been excluded from the original boundary as per the notification no. F. 7(35)/93/L&B/LA/7195 dated 18-8-1998 issued by the Dy. Secy. (LA) Land & Bldg. Deptt. GNCTD] falling in rural use zone and Zonal Development Plan of Zone 'C' (West Delhi-I) and bounded by Ambedkar Colony in the North-West, High Tension Line in the North, existing village road in the North-East, Bijwasan village road in the South-East and Bijwasan Village in the West, is proposed to be changed from 'rural use zone' to 'commercial' (warehousing and storage)".

2. The plan indicating the proposed modification shall be available for inspection at the office of the Joint Director, Master Plan Section Vikas Minor, 6th floor, IP Estate, New Delhi on all working days within the period of referred to above.

[No. F. 20(12)97-MP]

V. M. BANSAL, Commissioner-cum-Secy.

खाद्य और उपभोक्ता मामले मंत्रालय

(उपभोक्ता मामले विभाग)

भारतीय मानक ब्यूरो

नई दिल्ली, 3 मार्च, 1999

का.आ. 794—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में एतद्वारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिये गये हैं, वे रद्द कर दिये गये हैं और वापस ले लिये गये हैं :—

अनुसूची

क्रम सं. रद्द किये गये मानक की संख्या और वर्ष	भारत के राजपत्र भाग 2, खंड 3, उपखंड (ii) में का.आ. संख्या और तिथि प्रकाशित	टिप्पणी
(1)	(2)	(3)
1. आई एम 3855(भाग 1) : 1978	का.आ. 2216 दि. 1981-08-22	भारतीय मानकों की नई शृंखलाएं आई एस : 13730 कुड्डन वायर की विशेष टाइप और आई एस : 13778 परीक्षण पद्धतियों पर मानकों की शृंखलाएं को प्रकाशित कर दिया गया है।
2. आई एस 3855(भाग 3) : 1979	का.आ. 1341 दि. 1982-04-03	—यही—
3. आई एस 3855(भाग 3) : 1978	—	—यही—
4. आई एस 3855(भाग 4) : 81	का.आ. 0322 दि. 1985-01-26	—यही—
5. आई एस 3855(भाग 5) : 84	का.आ. 0457 दि. 1987-02-14	—यही—
6. आई एस 4685 (भाग 2) : 84	का.आ. 0509 दि. 1987-02-21	—यही—
7. आई एस 4800(भाग 1) : 68	का.आ. 1455 दि. 1969-04-19	—यही—
8. आई एस 4800(भाग 2) : 68	का.आ. 1455 दि. 1969-04-19	—यही—
9. आई एस 4800(भाग 3) : 68	का.आ. 1455 दि. 1969-04-19	—यही—
10. आई एस 4800(भाग 5) : 68	का.आ. 1455 दि. 1969-04-19	—यही—
11. आई एस 4800(भाग 8) : 70	का.आ. 1635 दि. 1972-07-08	—यही—
12. आई एस 4800(भाग 9) : 71	का.आ. 3255 दि. 1973-11-24	—यही—
13. आई एस 4800(भाग 10) : 77	का.आ. 2116 दि. 1980-08-09	—यही—
14. आई एस 4800(भाग 12) : 86	—	—यही—
15. आई एस 4800(भाग 13) : 89	का.आ. 0157 दि. 1991-01-19	—यही—
16. आई एस 6160 : 1971	का.आ. 2802 दि. 1973-09-29	—यही—
17. आई एस 7404(भाग 2) : 91	का.आ. 2858 दि. 1976-08-07	—यही—
18. आई एस 10114 : 82	का.आ. 2147 दि. 1985-05-18	—यही—
19. आई एस 10452(भाग 1) : 1983	का.आ. 3103 दि. 1986-09-13	—यही—
20. आई एस 10452(भाग 2) : 1983	का.आ. 3328 दि. 1986-09-27	—यही—

[सं. के प्र वि/13 : 7]

जै. वेकटरामन, अपर महानिदेशक

MINISTRY OF FOOD AND CONSUMER AFFAIRS

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New-Delhi, the 3rd March, 1999

S.O. 794.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, it is, hereby notified that the Indian Standards, particulars of which are mentioned in the Schedule given hereafter, have been cancelled and stand withdrawn :

SCHEDULE

Sl. No. & Year of the Indian No. Standard Cancelled		S.O. No. & Date published in the Gazette of India, Part-II, Section-3, Sub-section (ii)	Remarks
(1)	(2)	(3)	(4)
1.	IS 3855(Pt.1);78	S.O. 2216 Dated 1981-08-22	As the new series of Indian Standards IS 13730 on Particular type of winding wires and IS 13778 series of standards on Test methods have since been published.
2.	IS 3855(Pt.2) : 79	S.O. 1341 Dated 1982-04-03	-do-
3.	IS 3855(Pt.3) : 78		-do-
4.	IS 3855(Pt.4) : 81	S.O.0322 Dated 1985-01-26	-do-
5.	IS 3855(Pt.5) : 84	S.O.0457 Dated 1987-02-14	-do-
6.	IS 4685(Pt.2) : 84	S.O.0509 Dated 1987-02-21	-do-
7.	IS 4800(Pt.1) : 68	S.O.1455 Dated 1969-04-19	-do-
8.	IS 4800(Pt.2) : 68	S.O.1455 Dated 1969-04-19	-do-
9.	IS 4800(Pt.3) : 68	S.O.1455 Dated 1969-04-19	-do-
10.	IS 4800(Pt.5) : 68	S.O.1455 Dated 1969-04-19	-do-
11.	IS 4800(qt.8) : 70	S.O.1635 Dated 1972-07-08	-do-
12.	IS 4800(Pt.9) : 71	S.O.3255 Dated 1973-11-24	-do-
13.	IS 4800(Pt.10) : 77	S.O.2116 Dated 1980-08-09	-do-
14.	IS 4800(Pt.12) : 86	---	-do-
15.	IS 4800(Pt.13) : 89	S.O.0157 Dated 1991-01-19	-do-
16.	IS 6160 : 1971	S.O.2802 Dated 1973-09-29	-do-
17.	IS 7407(Pt.2) : 91	S.O. 858 Dated 1976-08-07	-do-
18.	IS 10114 : 82	S.O.2147 Dated 1985-05-18	-do-
19.	IS 10452(Pt.1) : 83	S.O.3103 Dated 1986-09-13	-do-
20.	IS 10452(Pt.2) : 83	S.O.3328 Dated 1986-09-27	-do-

[No. CMD/13;7]

J. VENKATARAMAN Addl. Dir. General

नई दिल्ली, 3 मार्च, 1999

का.आ. 795.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में एनद्वाारा अधिसूचित किया जाता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिये गये हैं, वे रद्द कर दिये गये हैं और वापस ले लिये गये हैं :—

अनुसूची

क्रम सं., रद्द किये गये मानक की संख्या और वर्ष	भारत के राजपत्र भाग II, खंड 3, उपखंड (ii) में का.आ. संख्या और तिथि प्रकाशित	टिप्पणी
(1)	(2)	(3)
1. आई एस 588 : 1978	का.आ. 3408 दिनांक 1980-12-31	कीटनाशी अधिनियम से हटा दिया गया
2. आई एस 930 : 1997	का.आ. 3171 दिनांक 1980-11-15	अन्तर्राष्ट्रीय प्रयोगों की तुलना में इसका प्रचलन नहीं है
8. आई एम 931 : 1973	का.आ. 2558 दिनांक 1975-08-09	—यही—
4. आई एस 933 : 1989	का.आ. 3428 दिनांक 1983-09-03	—यही—
5. आई एस 934 : 1989	का.आ. 0098 दिनांक 1980-01-12	—यही—
6. आई एस 940 :	का.आ. 0098 दिनांक 1980-01-12	—यही—
7. आई एस 946 : 1977	का.आ. 3416 दिनांक 1980-12-13	—यही—
8. आई एस 954 : 1989	का.आ. 2347 दिनांक 1990-09-08	—यही—
9. आई एस 2171 : 1985	का.आ. 1425 दिनांक 1990-05-19	—यही—
10. आई एस 2353 : 1963	का.आ. 2038 दिनांक 1963-07-20	कीटनाशी अधिनियम से हटा दिया गया
11. आई एस 2878 : 1986	का.आ. 1547 दिनांक 1990-06-02	अन्तर्राष्ट्रीय प्रयोगों की तुलना में इसका प्रचलन नहीं है।
12. आई एस 4862(भाग 1) : 1986	का.आ. 1427 दिनांक 1990-05-19	—यही—
13. आई एस 5506 : 1979	का.आ. 3428 दिनांक 1983-09-03	अन्तर्राष्ट्रीय प्रयोगों की तुलना में इसका प्रचलन नहीं है
14. आई एस 5507 : 1979	का.आ. 0358 दिनांक 1983-01-15	—यही—
15. आई एस 5526 : 1969	का.आ. 3740 दिनांक 1971-10-09	कीटनाशी अधिनियम से हटा दिया गया
16. आई एस 5735 : 1970	का.आ. 5032 दिनांक 1971-11-06	आई एस 14520-1998 में समाभिलित
17. आई एस 5896 (भाग 2) : 19	का.आ. 3530 दिनांक 1977-11-19	अन्तर्राष्ट्रीय प्रयोगों की तुलना में इसका प्रचलन नहीं है
18. आई एस 6234 : 1986	का.आ. 1431 दिनांक 1990-05-19	—यही—
19. आई एस 7581 : 1971	का.आ. 1892 दिनांक 1977-06-11	आई एस 14520 : 1998 में समाभिलित
20. आई एम 7944 : 1976	का.आ. 1598 दिनांक 1979-05-19	कीटनाशी अधिनियम से हटा दिया गया
21. आई एम 7949 : 1976	का.आ. 0313 दिनांक 1979-01-27	—यही—
22. आई एम 7977 : 1976	का.आ. 1597 दिनांक 1979-05-19	—यही—
23. आई एम 7985 : 1976	का.आ. 2505 दिनांक 1979-07-21	—यही—

24. आई एस 8082 : 1976	का.आ. 2305 दि. 1979-07-21	आई एस 14520 : 1998 में समाहित
25. आई एस 8543 (भाग 2/खंड 1) 1977	का.आ. 1606 दि. 1980-03-14	आई एस 13360 (भाग 3/खंड 2) 1977/आई एस ओ 60 : 1977 दोहरे नम्बर के अन्तर्गत समान विषय के प्रकाशन की दृष्टि से वापस ले लिया गया
26. आई एस 8543 (भाग 2/खंड 2) : 1977	का.आ. 1606 दि. 1980-03-14	आई एस 13360 (भाग 3/खंड 3) 1977/आई एस ओ 60 : 1977 दोहरे नम्बर के अन्तर्गत समान विषय के प्रकाशन की दृष्टि से वापस ले लिया गया
27. आई एस 9367 : 1980	का.आ. 0358 दि. 1983-01-15	कीटनाशी अधिनियम से हटा दिया गया
28. आई एस 9513 : 1979	का.आ. 3428 दि. 1983-09-03	क्योंकि आई एस 10052 (भाग 7) 1993 में इस आई एस की अपेक्षा शामिल की गई है
29. आई एस 10204 : 1982	का.आ. 3992 दि. 1985-08-24	अन्तर्राष्ट्रीय प्रयोगों की तुलना में इसका प्रचलन नहीं है
30. आई एस 10355 : 1990	का.आ. 1209 दि. 1991-05-04	कीटनाशी अधिनियम से हटा दिया गया
31. आई एस 11108 : 1984	का.आ. 0462 दि. 1987-02-14	अन्तर्राष्ट्रीय प्रयोगों की तुलना में इसका प्रचलन नहीं है
32. आई एस 11833 : 1986	का.आ. 1428 दि. 1990-05-19	—यही—
33. आई एस 13849 : 1993	का.आ. 1360 दि. 1994-06-18	—यही—
34. आई एस 14187 : 1994	का.आ. 0277 दि. 1995-02-04	कीटनाशी अधिनियम से हटा दिया गया

[सं. के प्र वि/13 : 7]

जं. रेंकटरायन, अपर महानिदेशक

New Delhi, the 3rd March, 1999

S.O. 795.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, it is, hereby notified that the Indian Standards, particulars of which are mentioned in the Schedule given hereafter, have been cancelled and stand withdrawn ;

SCHEDULE

Sl. No. & Year of the Indian Standard Cancelled	S.O. No. & Date published in the Gazette of India, Part-II, Section-3, Sub-section (ii)	Remarks
(1)	(2)	(3)
1. IS 588:1978	S.O. 3408 Dated 1980-12-13	Deleted from the Insecticides Act
2. IS 930:1977	S.O. 3171 Dated 1980-11-15	As considered obsolete type as compared to International practices

(1)	(2)	(3)	(4)
3. IS 931:1973	S.O. 2558 Dated 1975-08-09	As considered obsolete type as compared to international practices	
4. IS 933:1989	S.O. 3428 Dated 1983-09-03	-do-	
5. IS 934:1989	S.O. 0098 Dated 1980-01-12	-do-	
6. IS 940:19	S.O. 0098 Dated 1980-01-12	-do-	
7. IS 946:1977	S.O. 3416 Dated 1980-12-13	-do-	
8. IS 954:1989	S.O. 2347 Dated 1990-09-08	-do-	
9. IS 2171:1985	S.O. 1425 Dated 1990-05-19	-do-	
10. IS 2353:1963	S.O. 2038 Dated 1963-07-20	Deleted from the Insecticides Act.	
11. IS 2878:1986	S.O. 1547 Dated 1990-06-02	As considered obsolete type as compared to International practices.	
12. IS 4862(Pt.1) : 86	S.O. 1427 Dated 1990-05-19	-do-	
13. IS 5506:1979	S.O. 3428 Dated 1983-09-03	-do-	
14. IS 5507:1979	S.O. 0358 Dated 1983-01-15	-do-	
15. 5526:1969	S.O. 3740 Dated 1971-10-09	Deleted from the Insecticides Act	
16. IS 5735:1970	S.O. 5032 Dated 1971-11-06	Amalgamated in IS 14520 ; 1998	
17. IS 5896 (Pt.2) ;	S.O. 3530 Dated 1977-11-19	As considered obsolete type as compared to International practices.	
18. IS 6234:1986	S.O. 1431 Dated 1990-05-19	-do-	
19. IS 7581:1971	S.O. 1892 Dated 1977-06-11	Amalgamated in IS 14520 ; 1998	
20. IS 7944:1976	S.O. 1598 Dated 1979-05-19	Deleted from the Insecticides Act.	
21. IS 7949:1976	S.O. 0313 Dated 1979-01-27	-do-	
22. IS 7977:1976	S.O. 1597 Dated 1979-05-19	Deleted from the Insecticides Act	
23. IS 7985:1976	S.O. 2505 Dated 1979-07-21	-do-	
24. IS 8082:1976	S.O. 2505 Dated 1979-07-21	Amalgamated in IS 14520:1998	
25. IS 8543 (Pt. II/Sec 1):1977	S.O. 1606 Dated 1980-03-14	Withdrawn in view of the publication of IS 13360 (Pt. 3/Sec 2):1997/ISO 60:1977 on the same subject under dual numbering.	
26. IS 8543(Pt. II/Sec 2):1977	S.O. 1606 Dated 1980-03-14	Withdrawn in view of the publication of IS 13360(Pt.3/Sec 3):1997/ISO 60:1977 on the same subject under dual numbering.	
27. IS 9367:1980	S.O. 0358 Dated 1983-01-15	Deleted from the Insecticides Act.	
28. IS 9513:1979	S.O. 3428 Dated 1983-09-03	Since the requirements of this IS are covered in IS 10052 (Pt. 7):1993.	
29. IS 10204:1982	S.O. 3992 Dated 1985-08-24	As considered obsolete type as compared to International practices.	
30. IS 10355:1990	S.O. 1209 Dated 1991-05-04	Deleted from the Insecticides Act.	
31. IS 11108:1984	S.O. 0462 Dated 1987-02-14	As considered obsolete type as compared to International practices.	
32. IS 11833:1986	S.O. 1428 Dated 1990-05-19	-do-	
33. IS 13849:1993	S.O. 1360 Dated 1994-06-18	-do-	
34. IS 14187:1994	S.O. 0277 Dated 1995-02-04	Deleted from the Insecticides Act.	

नई दिल्ली, 3 मार्च, 1999

का.आ. 793.--भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) की खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस/जिन भारतीय मानक/मानकों, का/के विवरण नीचे अनुसूची में दिया गया है/दिये गये हैं, वह/वे स्थापित हो गया है/हो गये हैं।

अनुसूची

क्रम सं.	स्थापित भारतीय मानक(कों) की गंध्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिरिक्त भारतीय मानक अथवा मानकों, यदि कोई हो, की सं. और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 533 : 1998 तारपीन की गम सपिरिट (तारपीन का तेल) --विशिष्ट (दूसरा पुनरीक्षण)	आई एस 533 : 1973	98-10-31
2.	आई एस 2081 : 1998 स्वचल वाहन-बैटरी हेतु टेपर टर्मिनल केवल कनेक्टर --विशिष्ट (दूसरा पुनरीक्षण)	आई एस 2981 : 1976	98-10-31
3.	आई एस 2797 : 1998 पोटेशियम थोमाइड--विशिष्ट (तीसरा पुनरीक्षण)	आई एस 2797 : 1994	98-09-30
4.	आई एस 2852 : 1998 बढई का औगर--विशिष्ट (पहला पुनरीक्षण)	आई एस 2852 : 1964	98-12-31
5.	आई एस 3415 : 1998 वृम्बकीय कण द्वारा बोप संसूचन में प्रयुक्त पारिभाषिक शब्दावली (दूसरा पुनरीक्षण)	आई एस 3415 : 1980	98-10-31
6.	आई एस 3525 : 1998 व्यापारिक पोत के लिये कार्बन और कार्बन मैंगनीज इस्पात के आवरण निर्माण हेतु धातु आर्क वेल्डिंग-रीति संहिता (दूसरा पुनरीक्षण)	आई एस 3525 : 1983	98-12-31
7.	आई एस 4020 (भाग 1 से 16) : 1998 दरवाजे के शटर-परीक्षण पद्धतियां (तीसरा पुनरीक्षण)	आई एस---	98-11-30
8.	आई एस 6005 : 1998 लौह और इस्पात के लिये फासफेट लेपन की रीति संहिता (पहला पुनरीक्षण)	आई एस 6005 : 1970	98-11-30
9.	आई एस 6839 (भाग 2) : 1998 पावर रहित सामग्री के प्रहस्नन के लिये पारिभाषिक शब्दावली भाग 2 हाथ के ठेले और ट्रॉली (पहला पुनरीक्षण)	आई एस 6839 (भाग 2) : 1974	98-11-30
10.	आई एस 6971 : 1998 2-ईथाईल हेक्सान-1-ऑल-विशिष्ट (पहला पुनरीक्षण)	आई एस 6971 : 1973	98-10-31
11.	आई एस 10401 : 1998 गूचना अन्तरविनियम के लिये 8-बिट के कूटवद्ध अक्षर मैट (पहला पुनरीक्षण)	आई एस 10401 : 1982	98-03-31
12.	आई एस 10810 (भाग 58) : 1998 केबल के परीक्षण की प्रणाली भाग 58 आकस्मिजन सूचकांक परीक्षण	---	98-11-30
13.	आई एस 12375 (भाग 6) : 1998 शल्य चिकित्सा के लिये अन्तरोपण आंशिक और संपूर्ण कूल्हे पर के जोड़ भाग 6 इन्डीनुमा फेमोरल अग्रयवों के भिर और गद्द भाग के सहायता गुणधर्म ज्ञान करना	---	98-11-30
14.	आई एस 12375 (भाग 7) : 1998 शल्य चिकित्सा के लिये अन्तरोपण-आंशिक और संपूर्ण कूल्हे पर के जोड़ भाग 7 ऐंठन रहित अनुप्रयोग के इन्डीनुमा फेमोरल अग्रयवों की सहायता कार्यकारिता	---	98-11-30

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15.	आई एम 12375 (भाग 8) : 1998 शल्य चिकित्सा के लिये अन्तर्गोपण-आंशिक और संपूर्ण कूल्हे पर के जोड़ भाग 8 ऐंठन सहित अनुप्रयोग के ड डीनुमा फेमोरल अवयवों की सहायता कार्यकारिता	—	98-11-30
16.	आई एम 12375 (भाग 9) : 1998 शल्य चिकित्सा के लिये अन्तर्गोपण आंशिक और संपूर्ण कूल्हे पर के जोड़ भाग 9 ड डीनुमा फेमोरल अवयवों के सिर जड़न के बलआघूर्ण के प्रति प्रतिरोध जात करना	—	98-11-30
17.	आई एम 12747 (भाग 3) : 1998 विद्युत् प्रतिरोधन के लिये संयोजन नम्य सामग्री की विशिष्टि भाग 3 अलग-अलग सामग्री की विशिष्टि	—	98-11-30
18.	आई एम 13840 (भाग 4) : 1998 फेरो-टाईटेनियम का रासायनिक विश्लेषण भाग 4 कपकेरॉन (भारतात्मक) प्रणाली द्वारा एड्युमीनियम का निर्धारण	—	98-02-28
19.	आई एम 14506 : 1998 दोषटक एपीक्सी रेड ब्रॉक्साइड जस्ता फास्फेट, वैल्ड के योग्य प्राइमर-विशिष्टि	—	98-11-30
20.	आई एम 14538 (भाग 2) : 1998 गैस्केट और पैकिंग भाग 2 संयोजन कार्य—परीक्षण विधियाँ	—	98-05-31
21.	आई एम 14544 : 1998 सीधे संचकित पोलोविनाईल क्लोराइड (पीवीसी) लेन के साथ समड़े के सुरक्षा जूते—विशिष्टि	—	98-11-30
22.	आई एम 14560 (भाग 2) : 1998 घड़ीसाजी हाथ घड़ी केसिस के लिये खनिज व यौगिक कांच भाग 2 गैस्केट के आयाम, सामग्री और परीक्षण विधिविधि—विशिष्टि	—	98-10-31
23.	आई एम 14582 : 1998 कृषि प्रयोजनां हेतु उपकेन्द्री पम्प हेतु एफ फेजी, ए पी विद्युत् की छोटी मोटर—विशिष्टि	—	98-11-30
24.	आई एम 14585 : 1998 स्लाइन हाब-प्रतिकेन्द्रज पाशिर्बन—विशिष्टि	—	98-12-31
25.	आई एम 14586 : 1998 सरेशन हाब-सीधा पाशिर्बन—विशिष्टि	—	98-12-31
26.	आई एम 14587 : 1998 मध्यम घनत्व के पूर्व लेमिनेटिड फाइबर बोर्ड—विशिष्टि	—	98-09-30
27.	आई एम 14590 : 1998 निर्जलीकरण के प्रति ड्वाई दर के विश्लेषण का प्रपत्र	—	98-10-31
28.	आई एम 14592 : (भाग 1) : 1998 बांधों वाले समाकलित बिजली घरों के आयोजन और डिजाइन मार्गदर्शी सिद्धान्त भाग 1 अवलोकन योजना और विन्यास	—	98-10-31
29.	आई एम 14594 : 1998 संवेदी विश्लेषण उपकरण—वाइन चखने हेतु मिनास	—	98-08-31
30.	आई एम 14601 : 1998 व्यवस्थापन पम्पों के कार्यकारिता आंकड़ों के प्रस्तुतीकरण की विधि	—	98-12-31
31.	आई एम 14603 : 1998 प्राकृतिक ड्रैडन-संरक्षण संहिता	—	98-12-31
32.	आई एम 14604 : 1998 लेन द्रव्यात्मित तंत्र में प्रयुक्त धनात्मक विद्युत् पम्प और मोटरों हेतु नव्य विशिष्टि के लिये प्रपत्र	—	98-12-31
33.	आई एम 14606 : 1998 मिनाई उपस्कर-मीडिया फिल्टर विशिष्टि	—	98-11-30

1	2	3	4
34.	आई एस 14619 : 1998 मोचन आधार कागज—विशिष्ट	---	98-11-30
35.	आई एस 14621 : 1998 फोटोग्राफी-इलेक्ट्रॉनिकी फ्लैश उपस्कर— प्रकाश निकास और कार्यकारिता ज्ञान करना	---	98-11-30
36.	आई एस 14622 : 1998 फोटोग्राफी इलेक्ट्रॉनिक फ्लैश उपस्कर— अनावरण का स्वचालित नियंत्रण	---	98-11-30
37.	आई एस 14624 (भाग 2) : 1998 लेजर उत्पाद की सुरक्षा भाग 2 प्रकाशिक फाइबर संचार पद्धति की सुरक्षा	---	98-11-30
38.	आई एस 14639 : 1998 सूचना प्रौद्योगिकी साफ्टवेयर पैकेज— गुणता अपेक्षाएं एवं परीक्षण	---	98-12-31
39.	आई एस 14640 (भाग 1) : 1998 ग्राफिक तकनीक—फोटोग्राफिक सामग्री पत्तियों एवं कागज हेतु रजिस्टर प्रणाली भाग 1 तीन पिन प्रणाली	---	98-12-31
40.	आई एस 14645 : 1998 तरल शक्ति प्रणाली तथा सेंधटक सिलिन्डर—सांकेतिक दाब	---	98-12-31

इन मानकों की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुरशाह जफर मार्ग, नई दिल्ली-110002 और क्षेत्रीय कार्यालयों नई दिल्ली, कलकत्ता, चण्डीगढ़, चेन्नई तथा मुंबई एवं शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयंबटूर, फरीदाबाद, गाजियाबाद, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, लखनऊ, पटना तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[सं. के प्रवि/13 : 2]

जे. वेंकटरामन, अपर महानिदेशक

New Delhi, the 3rd March, 1999

S.O. 796.—In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notified that the Indian Standard(s), particulars of which is/are given in the Schedule hereto annexed, has/have been established on the date indicated against each.

SCHEDULE

Sl. No.	No. year and Title of the Indian Standard(s)	No. & year of the Indian Standard or Standards, if any, superseded by the new Indian Standard	Date of Establishment
(1)	(2)	(3)	(4)
1.	IS 533:1998—Gum spirit of turpentine (Oil of turpentine)—Specification (Second Revision)	IS 533:1973	98-10-31
2.	IS 2081:1998—Automotive vehicles—Taper terminal cable connectors for batteries—Specification (Second Revision)	IS 2081:1976	98-10-31
3.	IS 2797:1998—Potassium bromide—Specification (Third Revision)	IS 2797:1994	98-09-30
4.	IS 2852:1998—Carpenters' augers—Specification (First Revision)	IS 2852:1964	98-12-31
5.	IS 3415:1998—Glossary of terms used in magnetic particle flaw detection (Second Revision)	IS 3415:1980	98-10-31

(1)	(2)	(3)	(4)
6. IS 3525:1998—Metal arc welding for hull construction of merchant ship in carbon and carbon manganese steels—Code of practice (Second Revision)	IS 3525:1983		98-12-31
7. IS 4020 (Parts 1 to 16):1998—Door shutters Methods of tests (Third Revision)	—		98-11-30
8. IS 6005:1998—Code of practice for phosphate coatings of iron and steel (First Revision)	IS 6005:1970		98-11-30
9. IS 6839 (Part 2):1998—Glossary of terms relating to non-powered materials handling equipment Part 2 Hand trucks and trolleys (First Revision)	IS 6839(Part 2):1974		98-11-30
10. IS 6971:1998—2-Ethyl hexan-1-OL Specification (First Revision)	IS 6971:1973		98-10-31
11. IS 10401:1998—8-Bit coded character set for information interchange (First Revision)	IS 10401:1982		98-03-31
12. IS 10810 (Part 58):1998—Method of tests for cables Part 58 Oxygen index test	—		98-11-30
13. IS 12375 (Part 6):1998—Implants for surgery—Partial and total hip joint prostheses Part 6 Determination of endurance properties of head and neck region of stemmed femoral components	—		98-11-30
14. IS 12375 (Part 7):1998—Implants for surgery —Partial and total hip joint prostheses Part 7 Endurance performance of stemmed femoral components without application of torsion	—		98-11-30
15. IS 12375 (Part 8):1998—Implants for surgery— Partial and total hip joint prostheses Part 8 Endurance performance of stemmed femoral components with application of torsion	—		98-11-30
16. IS 12375 (Part 9):1998—Implants for surgery—Partial and total hip joint prostheses Part 9 Determination of resistance to torque of head fixation stemmed femoral components	—		98-11-30
17. IS 12747 (Part 3):1998—Combined flexible materials for a electrical insulation Part 3 Specification for individual materials	—		98-11-30
18. IS 13840 (Part 4):1998—Chemical analysis of ferro-titanium Part 4 Determination of aluminium by cup-ferron (Gravimetric) Method	—		98-02-28
19. IS 14506:1998—Epoxy redoxide zinc phosphate weldable primer, two Component—Specification			98-11-30
20. IS 14538 (Part 2):1998—Gaskets and packings Part 2 Composition cork—Test methods	—		98-05-31
21. IS 14544:1998—Leather safety footwear with direct moulded polyvinyl chloride (PVC) sole—Specification	—		98-11-30

(1)	(2)	(3)	(4)
22.	IS 14560 (Part 2):1998—Horology—Mineral and sapphire glass for wrist watch cases Part 2 Gasket dimensions, material and test procedures—Specification	—	98-10-31
23.	IS 14582:1998—Single phase small a.c. electric motors for centrifugal pumps for agricultural applications—Specification	—	98-11-30
24.	IS 14585:1998—Spline hobs—Involute sided—Specification	—	98-12-31
25.	IS 14586:1998—Serration hobs—Straight sided—Specification	—	98-12-31
26.	IS 14587:1998—Prelaminated medium density fibre board—Specification	—	98-09-30
27.	IS 14590:1998—Proforma for analysis of unit rate of dewatering	—	98-10-31
28.	IS 14592(Part 1):1998—Planning and design of barrage power houses—Guidelines Part 1 Investigation, Planning and layout	—	98-10-31
29.	IS 14594:1998—Sensory analysis—apparatus wine testing glass	—	98-08-31
30.	IS 14601:1998—Method for presenting performance data for hydraulic pumps	—	98-12-31
31.	IS 14603:1998—Potato grader—Test code	—	98-12-31
32.	IS 14604:1998—Proforma for purchase specification for positive displacement pumps and motors used in oil hydraulic systems	—	98-12-31
33.	IS 14606:1998—Irrigation equipment—Media filters—Specification	—	98-11-30
34.	IS 14619:1998—Release base paper—Specification	—	98-11-30
35.	IS 14621:1998—Photography—Electronic flash equipment—Determination of light output and performance	—	98-11-30
36.	IS 14622:1998—Photography—Electronic flash equipment—Automatic control of exposure	—	98-11-30
37.	IS 14624(Part 2):1998—Safety of laser products Part 2 Safety of optical fibre communication system	—	98-11-30
38.	IS 14639:1998—Information technology—Software packages—Quality requirements and testing	—	98-12-31
39.	IS 14640(Part 1):1998—Graphic technology—Register systems for photographic materials, foils and paper Part 1 Three-pin system	—	98-12-31
40.	IS 14645:1998—Fluid power systems and components—Cylinders—Nominal pressure	—	98-12-31

Copy of these Indian Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices, New Delhi, Calcutta, Chandigarh, Chennai, Mumbai and also Branch Offices, Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Faridabad, Ghaziabad, Guwahati, Hyderabad, Jaipur, Kanpur, Lucknow, Nagpur, Patna, Pune, Thiruvananthapuram.

[No. CMD/13:2]

J. VENKATARAMAN, Addl. Director General

नई दिल्ली, 4 मार्च, 1999

का.आ. 797.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित मॉडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वर्ग III यथार्थता (मध्यम यथार्थता) वाली "एच टी" शृंखला की स्वतः सूक्ष्म अस्वचालित भेज तल तोलन मशीन को इलेक्ट्रॉनिक में संपरिवर्तन के लिए किट के मॉडल का जिसके ब्रांड का नाम "हीरो" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मैसर्स हीरो हाई-टेक स्केल्स लिमिटेड, 445-ए, साठे रोड, गणपते, कोयम्बटूर-541006 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी /09/98/75 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह मॉडल मध्यम यथार्थता (यथार्थता वर्ग-III) का तोलन उपकरण है, जिसकी अधिकतम क्षमता 5 किलोग्राम और न्यूनतम क्षमता 20 ग्राम है। सत्यापन मापमान (ई) 1 ग्राम है। इसमें एक आध्यायतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आध्यायतुलन प्रभाव है। भार ग्राही आयताकार है जिसकी भुजाएं 190×250 मिली मीटर हैं। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि मॉडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यकरण वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी मिश्रित, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित मॉडल का विनिर्माण किया गया है और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 (एन 10,000) में कम या उसके बराबर है तथा जिसका "ई" मान 1, 2, 5 शृंखला का है।

[फा. म. डब्ल्यू एम-21(50)/97]

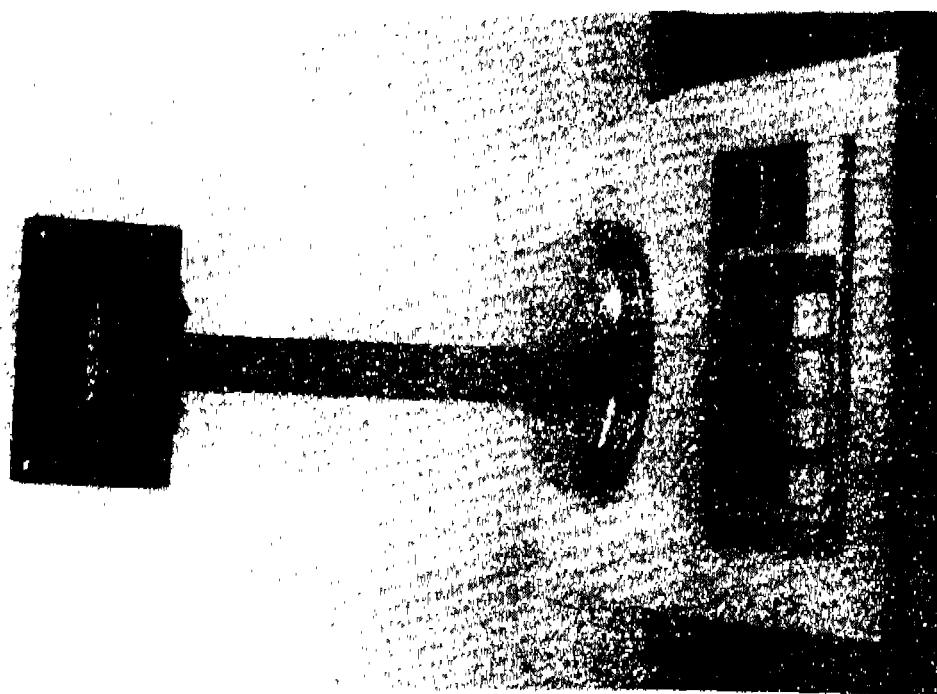
पी.ए. कृष्णमूर्ति, निदेशक, विभिन्न माप विज्ञान

New Delhi, the 4th March, 1999

S.O. 797.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain that accuracy over periods of sustained use and to render accurate service under varied conditions :

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, electronic table top weighing machine of type "HT" series of class III accuracy (medium accuracy) and with brand name "HERO" (hereinafter referred to as the model) manufactured by M/s Hero Hi-tech Scales Limited, 445-A, Sathy Road, Ganapathy, Coimbatore—541006, and which is assigned the approval mark IND/09/98/75:

The said Model is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 5kg and minimum capacity of 20g. The verification scale interval (e) is 1g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of sides 190 x 250 millimeter. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and frequency 50 hertz, alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value of 1, 2, 5 series manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved model has been manufactured.

[File No. WM-21 (50)/97]

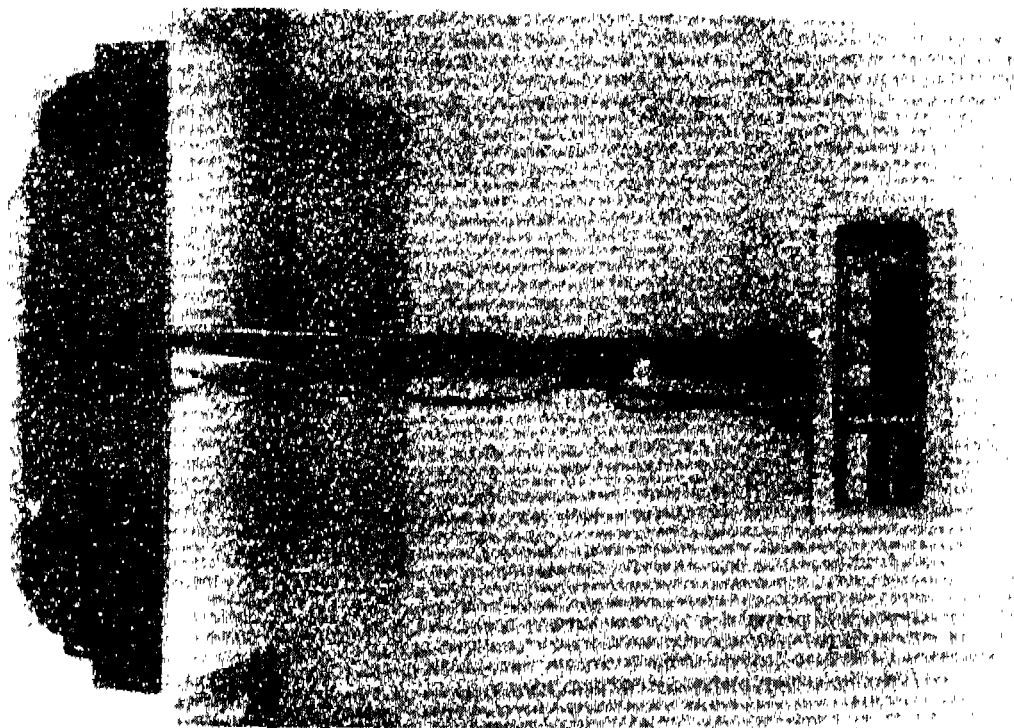
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 4 मार्च, 1999

का.आ. 798.- केन्द्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबन्धों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केन्द्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, बर्ग II यथार्थता (उच्च यथार्थता) वाला "एच सी" श्रृंखला की स्वतः संचालित अस्वबाहित, इलेक्ट्रॉनिक, बैच तोलन मशीन के माडल का, जिसके ब्रांड का नाम "हीरो" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैमर्स हीरो हाई-टेक स्केल्स लिमिटेड, 445-ए, साठ रोड, गणपते, कोयम्बटूर-541006 द्वारा किया गया है और जिसे अनुमोदन प्रिदन आई.एन.डी. 09/98.76 समनुदर्शित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह माडल उच्च यथार्थता यथार्थता बर्ग II का तोलन उपकरण है, जिसकी अधिकतम क्षमता 24 किलोग्राम ग्राम और न्यूनतम क्षमता 100 ग्राम है। स्थापन मापमान (ए) 2 ग्राम है। इसमें एक आन्तरिकतः युक्ति है जिसका शत प्रतिशत स्वकलनात्मक धारित आद्येतुलन प्रभाव है। भार ग्राही आयताकार है जिसकी भुजाएं 100 x 300 मिलीमीटर है। प्रकाश उत्सर्जक सायां प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति पर प्रत्यावर्ती धारा विद्युत प्रदाय की कार्य करता है।



और, केन्द्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी श्रृंखला के उसी मॉडल, यथार्थता और कार्यकरण वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है, और जिसके स्थापन मापमान की अन्तराल (एन) की अधिकतम संख्या 100000 (एन = 100000) से कम या उसके बराबर है तथा जिसका "ई" मान 1, 2, 5 श्रृंखला का है।

[फा. म डब्ल्यू एम-21(50)/97]

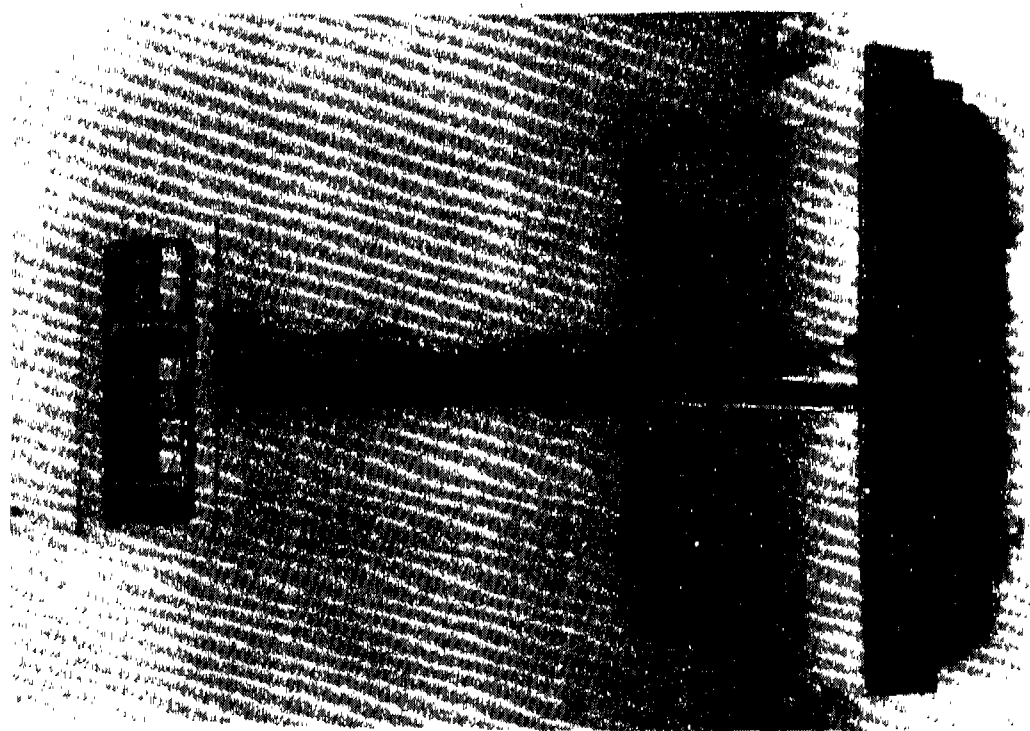
पी.ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 4th March, 1999

S.O. 798.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain the accuracy over periods of sustained use and to render accurate service under varied conditions :

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, electronic Bench weighing machine of type "HB" series of the class II accuracy (high accuracy) and with brand name "HERO" (hereinafter referred to as the model) manufactured by M/s Hero Hi-Tech Scales Limited, 445-A, Sathy Road, Ganapathy, Coimbatore- 541006, and which is assigned the approval mark IND/09/98/76;

The said model is a high accuracy (accuracy class II) weighing instrument with a maximum capacity of 24 kg. and minimum capacity of 100g. The verification scale interval (e) is 2g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of side 300 × 300 millimeter. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and frequency 50 Hertz alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum number of verification scale interval (n) less than or equal to 100000 ($n \leq 100000$) and with 'e' value to 1. 2, 5 series manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM-21 (50)/97]

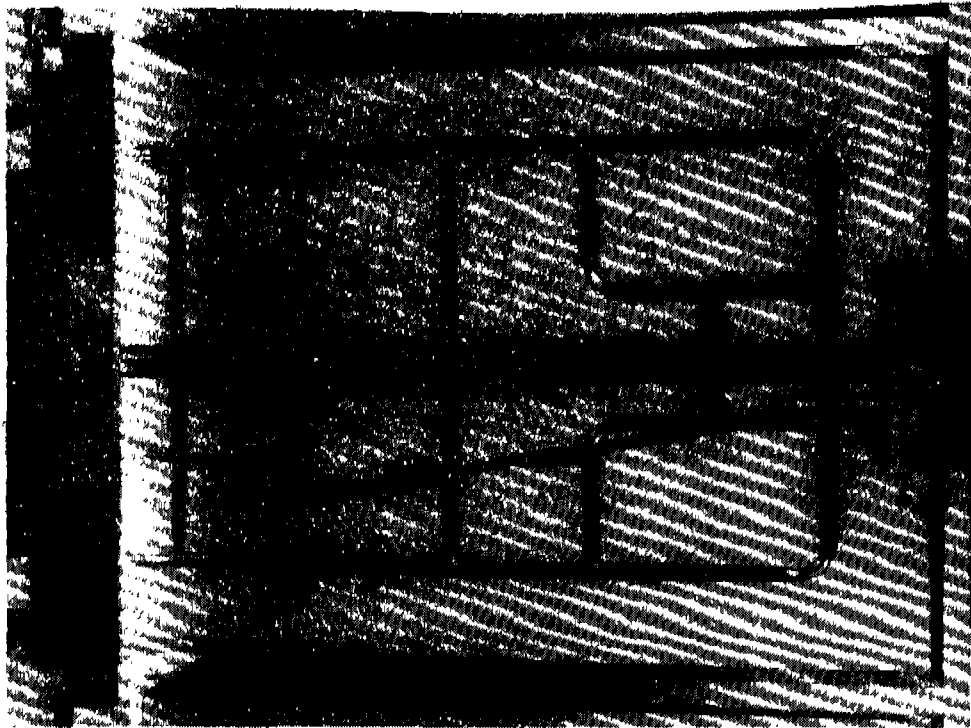
P. A. KRISHNAMOORTHY, Director, Legal Metereology

नई दिल्ली, 4 मार्च, 1999

का.आ. 799.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वर्ग III यथार्थता (मध्यम यथार्थता) वाली "एच पी" शृंखला की, स्वतःसूचक, अस्वचालित, इलेक्ट्रॉनिक, प्लेटफार्म तोलन मशीन के माडल का, जिसके ब्रांड का नाम "हीरो" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैसर्स हीरो हाई-टेक स्केल्स लिमिटेड, 445-ए, साठे रोड, गणपते, कोयम्बटूर-541006 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई एन डी/09/98/77 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल मध्यम यथार्थता (यथार्थता वर्ग III) का तोलन उपकरण है, जिसकी अधिकतम क्षमता 60 कि.ग्रा. और न्यूनतम क्षमता 200 ग्राम है। सत्यापन मापमान (ई) 10 ग्रा. है। इसमें एक आधेयतुलन युक्ति है जिसका शतप्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। भार ग्राही आयताकार है जिसकी भुजाएं 500 × 600 मिलीमीटर हैं। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केंद्रीय सरकार उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उमी मेक, यथार्थता और कार्यकरण वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उमी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 10,000 (एन ≤ 10,000) से कम या उसके बराबर है तथा जिसका "ई" मान 1,2,5 शृंखला का है।

[फा.सं. डब्ल्यू. एम-21(50)/97]

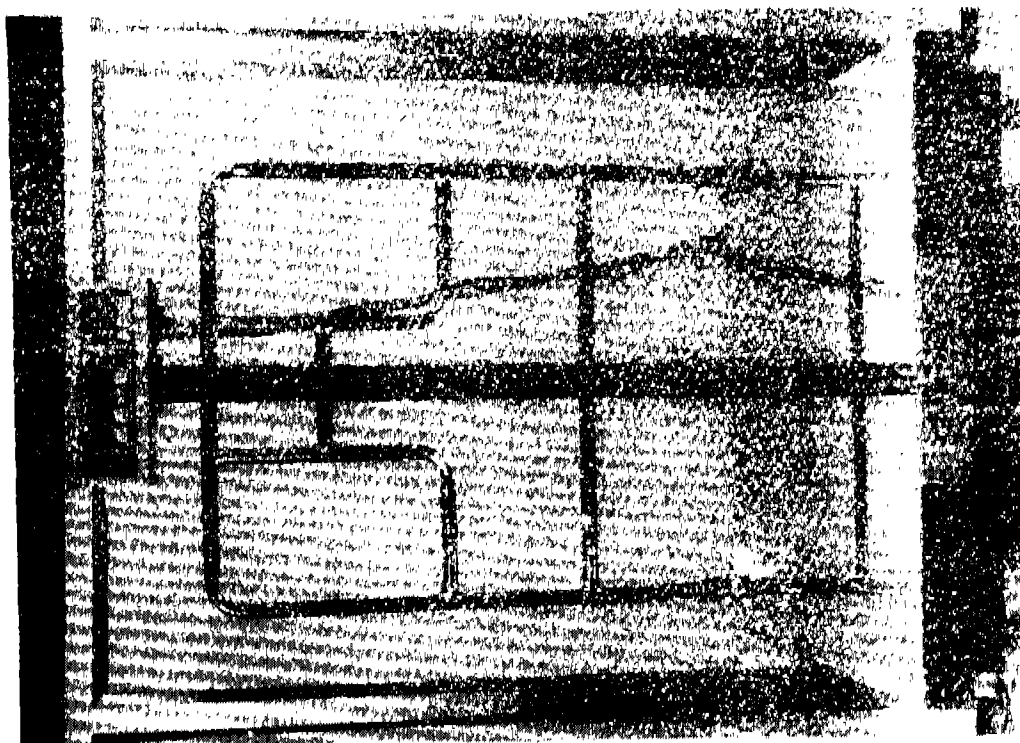
पी.ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 4th March, 1999

S.O. 709.— Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain the accuracy over periods of sustained use and to render accurate service under varied conditions :

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, electronic platform weighing machine of type "HP" series of class III accuracy (medium accuracy) and with brand name "HERO" (hereinafter referred to as the model) manufactured by M/s. Hero Hi-Tech Scales Limited, 44-B-A, Sathy Road, Campathy, Coimbatore-541606 and which is assigned the approval mark IND609/98/77.

The said model is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 60kg, and minimum capacity of 200g. The verification scale interval (e) is 10g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of sides 500 × 600 millimeter. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and frequency 50 hertz alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum number of verification scale interval(n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value 1, 2, 5 series manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No. WM-21(50)/97]

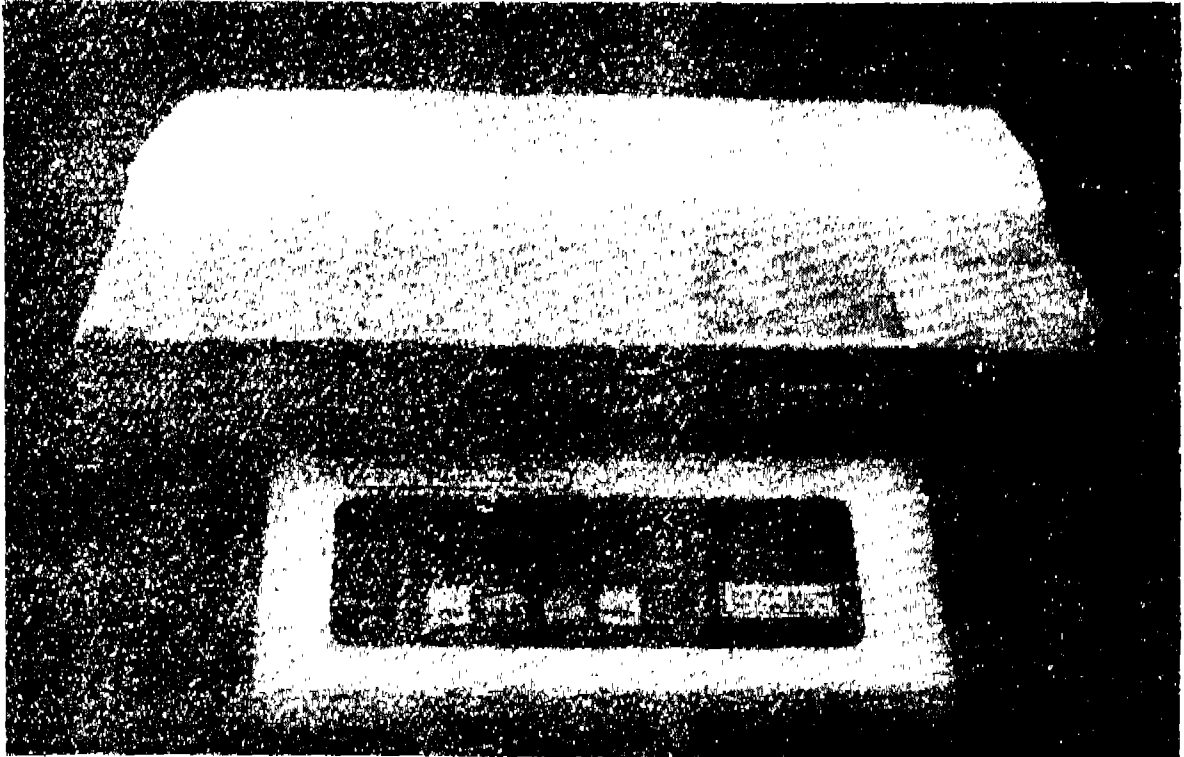
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 4 मार्च, 1999

अ.आ. 800. —केंद्रीय सरकार का, निम्नलिखित प्राप्तिद्वारा द्वारा उक्त प्राप्त रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (सीले टी आई आकृति देखें) आट और माप मानक अधिनियम, 1976 (1976 का 60) और आट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के अन्वय में अनुमोदित है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा,

अतः, केंद्रीय सरकार, उक्त अधिनियम की भात 36 को उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वर्ग III यथार्थता (मध्यम यथार्थता) वाली "एन आई" शृंखला की सत्यापन उपकरण, इलेक्ट्रॉनिक, शिशु और बच्चा तोलन मशीन के माडल का, जिसके ब्रांड का नाम "लीगे" है (जिसे इसमें इसमें परतला माडल दिया गया है) और जिसका विनिर्माण श्री. लीगे आई-टेक स्केल्स लिमिटेड, 445-ए, साठे रोड, गणपते, कोयंबटूर-431006, द्वारा किया गया है और जिसे अनुमोदन दिवस आई.एन.सी. 109/99/78 संप्रदर्शित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह माडल मध्यम यथार्थता (यथा निर्धारित) का सत्यापन उपकरण है जिसकी अधिकतम क्षमता 20 कि.ग्रा. और न्यूनतम क्षमता 200 ग्राम है। सत्यापन मापमान (ई) 10 ग्रा. है। इसमें एक आदर्शतम युक्ति है जिसका इस प्रतिशत आकलनात्मक धारित आधेयतुलन प्रभाव है। भार ग्राही बच्चा को तबतरी पर रखने योग्य है। प्रकार उपयुक्त उपकरण प्रदर्श तोलन सत्यापन उपकरण बनता है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्त धारा विद्युत प्रदान पर कार्य करता है।



और, केंद्रीय सरकार, उक्त अधिनियम का भात 36 को उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उगी मेक, यथार्थता और कार्यकरण वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी निनिर्माण द्वारा करी जायगा, डिजाइन और उसी सामग्री से किया जाता है, जिससे अनुमोदित माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का न्यूनतम (एन) की अधिकतम सरलता 10,000 (एन — 10,000) से कम या उसके बराबर है तथा जिसका "ई" मान 1,2,5 शृंखला का है।

[ग. म. डब्ल्यू एम-21(50)/97]

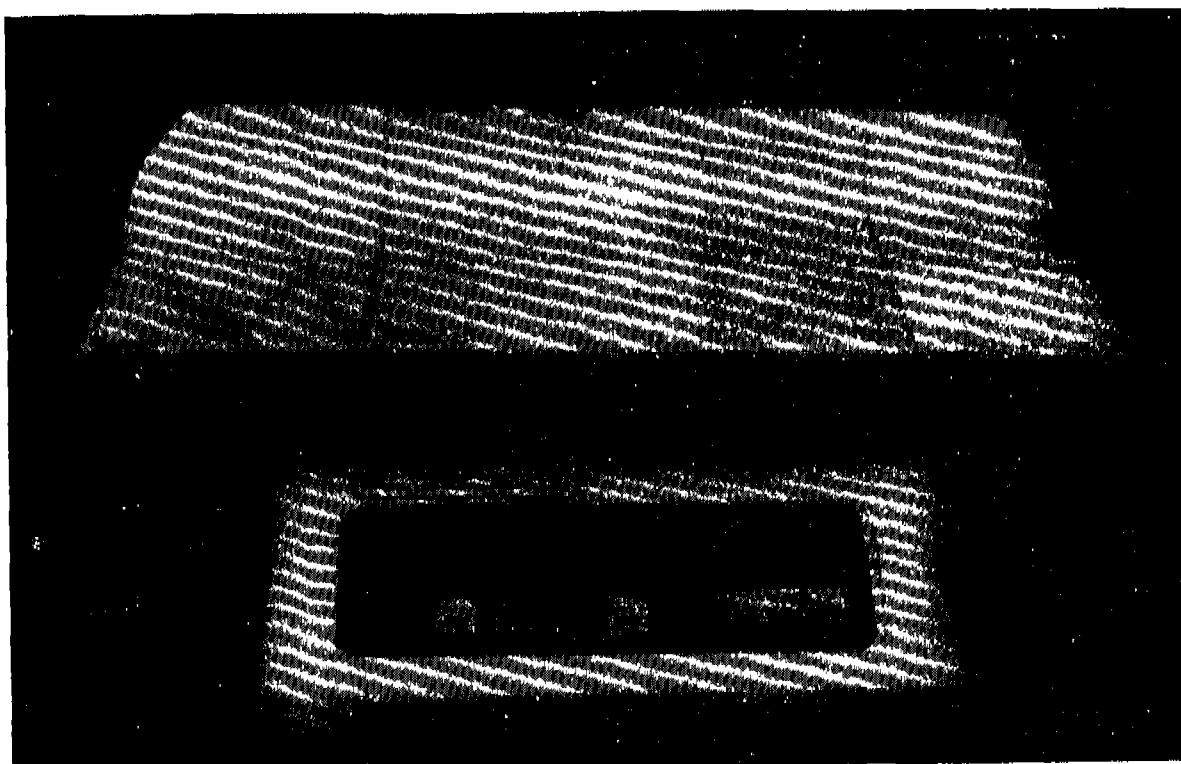
पी. ए. कृष्णमूर्ति, निदेशक, निधिक माप विज्ञान

New Delhi, the 4th March, 1999

S.O. 800.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain the accuracy over periods of sustained use and to render accurate service under varied conditions :

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, electronic baby cum child weighing machine of type "HY" series of class III accuracy (medium accuracy) and with brand name "HERO" (hereinafter referred to as the Model) manufactured by M/s Hero Hi-Tech Scales Limited, 445-A, Sathy Road, Ganapathy, Coimbatore-541006, and which is assigned the approval mark IND/09/98/78;

The said model is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 20 kg and minimum capacity of 200g. The verification scale interval (e) is 10g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of platter type to receive the child. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and frequency 50 hertz alternate current power supply;



Further, in exercise of the powers conferred by sub-section (12) of the section 36 of the said said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum number of verification scale interval(n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value of 1, 2, 5, series manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[File No WM-21(50)/97]

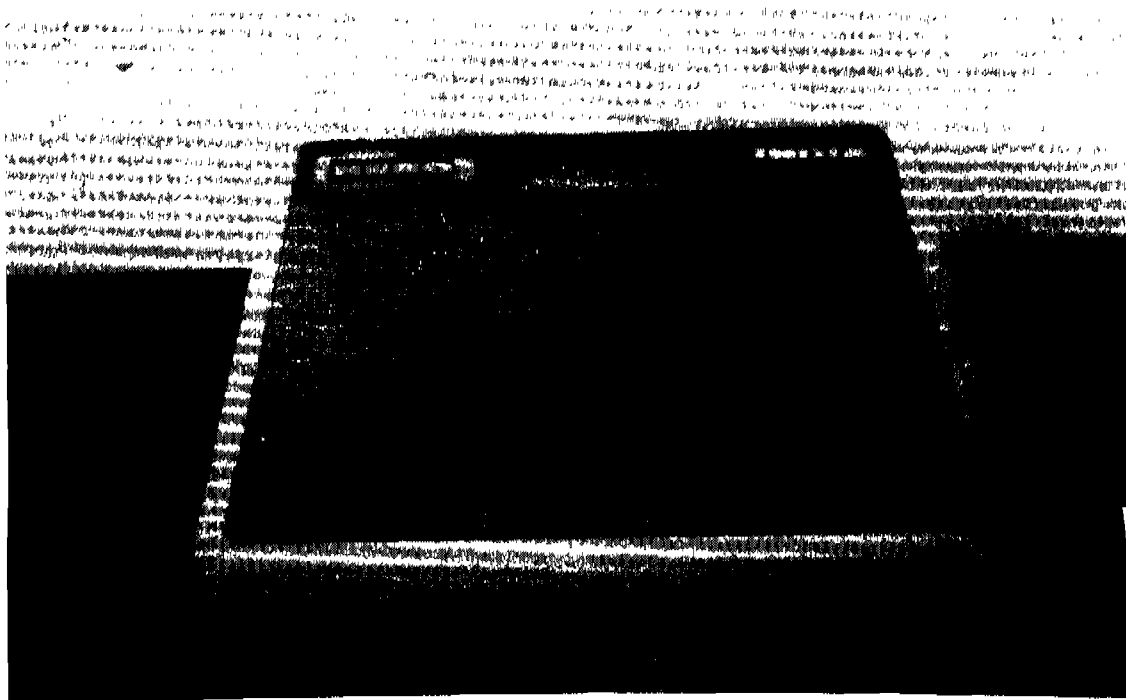
P A KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 4 मार्च, 1999

का. आ. 801.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथाथता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा देता रहेगा;

अतः, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वर्ग IV यथार्थता (साधारण यथार्थता) वाली "एच एक्स" शृंखला की, स्वतःसूचक, अस्वच्छालित इलेक्ट्रॉनिक, व्यक्ति तोलन मशीन के माडल का, जिसके ब्रांड का, नाम "हीरो" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैमर्स हीरो-हाई-टेक स्केल्स लिमिटेड, 445-ए, साठे रोड, गणपते, कोयम्बटूर-541006 द्वारा किया गया है और जिसे अनुमोदन चिन्ह आई एन डी/09/98/79 समनुदेशित किया है, अनुमोदन, प्रमाणपत्र प्रकाशित करती है।

यह माडल साधारण यथार्थता (यथार्थता वर्ग IV) का तोलन उपकरण है जिसकी अधिकतम क्षमता 130 कि.ग्रा. और न्यूनतम क्षमता 5 किलो ग्राम है। सत्यापन मापमान (ई) 99 किलोग्राम तक 0.5 किलोग्राम और उसके पश्चात् 1 किलोग्राम है। इसमें एक आधेयतुलन युक्ति है जिसमें शत प्रतिशत व्यकलात्मक धारित आधेयतुलन प्रभाव है। भारीग्राही आयताकार है जिसकी भुजाएं 190 × 250 मिलीमीटर हैं। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करती है। उपकरण 230 वोल्ट, 50 हर्ट्ज आपूर्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है।



और, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अन्तर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यकरण वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धांत, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है, और जिसके सत्यापन मापमान का अन्तराल (एन) की अधिकतम संख्या 1000 (एन ≤ 1,000) से कम या उसके बराबर है तथा जिसका "ई" मान 1,2,5, शृंखला का है।

[फा. सं. डब्ल्यू एम-21(50)/97]

पी.ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 4th March, 1999

S.O. 801.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, electronic person weighing machine of type "HX" series of class IV accuracy (ordinary accuracy) and with brand name "HERO" (hereinafter referred to as the model) manufactured by M/s. Hero Hi-Tech Scales Limited, 445-A, Sathy Road, Ganapathy, Coimbatore-541006, and which is assigned the approval mark IND/09/98/79;

The said model is a ordinary accuracy (accuracy class IIII) weighing instrument with a maximum capacity of 130 kilogram and minimum capacity of 5 kilo gram. The verification scale interval (e) is 0.5 kg. up to 99 kg and thereafter 1 kg. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of sides 190 × 250 millimetre. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and frequency 50 Hertz alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum number of verification scale interval (n) less than or equal to 1,000 ($n < 1,000$) and with 'e' value of 1, 2, 5 series manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which, the approved Model has been manufactured.

[F. No. WM-21 (50)/97]

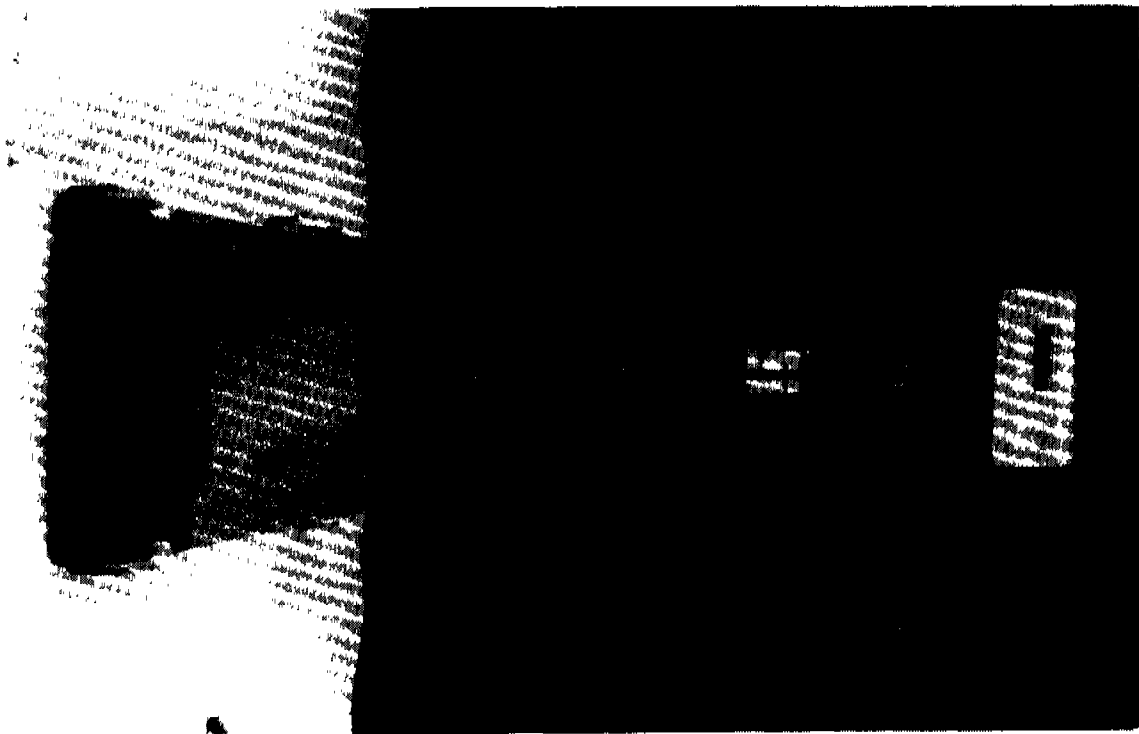
P A KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 4 मार्च, 1999

का. आ. 802 .—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत की गई रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (माडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना है कि लगातार प्रयोग की अवधियों में भी उक्त माडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, वर्ग III यथार्थता (मध्यम यथार्थता) वाली "एच सी" शृंखला की, स्वतः संचालित, प्लेट फार्म तोलन मशीन को इलेक्ट्रॉनिक में संपरिवर्तन के लिए किट के मॉडल को, जिसके ब्रांड का नाम "हीरो" है (जिसे इसमें इसके पश्चात् मॉडल कहा गया है) और जिसका विनिर्माण मैसर्स हीरो-हाई-टेक स्केल्स लिमिटेड, 445-ए, साठे रोड, गणपते, कोयम्बटूर-541006 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई.एन.डी./09/98/80 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है;

यह माडल मध्यम यथार्थता (यथार्थता वर्ग III) का तोलन उपकरण है, जिसकी अधिकतम क्षमता 300 किलोग्राम और न्यूनतम क्षमता 2 किलो ग्राम है। सत्यापन मापमान (ई) 100 ग्राम है। इसमें एक आधेयतुलन युक्ति है जिसका शत प्रतिशत व्यकलनात्मक धारित आधेयतुलन प्रभाव है। भारी ग्राही आयातकार है जिसकी भुजाएं 600 × 600 मिली मीटर की हैं। प्रकाश उत्सर्जक डायोड प्रदर्श तोलन परिणाम उपदर्शित करता है। उपकरण 230 वोल्ट और 50 हर्टज आवृत्ति की प्रत्यावर्ती धारा विद्युत प्रदाय पर कार्य करता है;



और केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (12) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, घोषित करती है कि माडल के इस अनुमोदन प्रमाणपत्र के अंतर्गत, उसी शृंखला के उसी मेक, यथार्थता और कार्यकरण वाला ऐसा तोलन उपकरण भी होगा, जिसका विनिर्माण उसी विनिर्माता द्वारा उसी सिद्धान्त, डिजाइन और उसी सामग्री से किया जाता है जिससे अनुमोदित माडल का विनिर्माण किया गया है, और सत्यापन मापमान का अंतराल (एन) की अधिकतम संख्या 10,000 (एन ≤ 10,000) से कम या उसके बराबर है तथा जिनका "ई" मान 1, 2, 5 शृंखला का है।

[फा. सं. डब्ल्यू एम-21(50)/97]

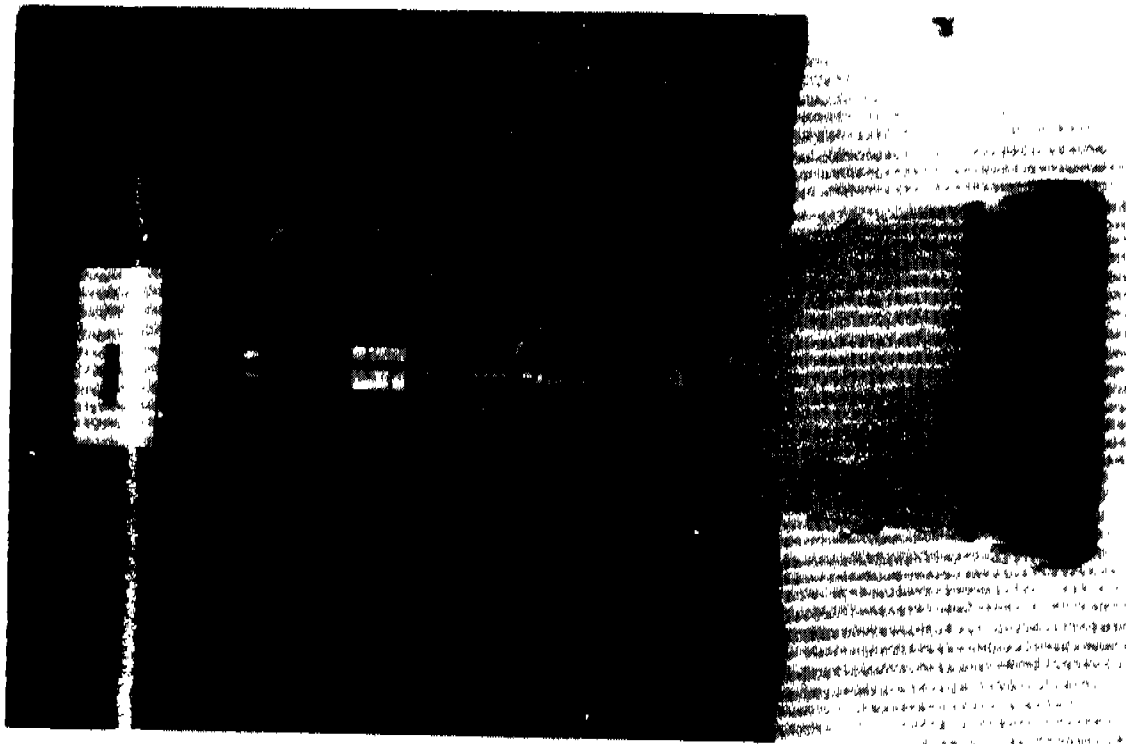
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 4th March, 1999

S. O. 802.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the Model described in the said report (figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said Model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions:

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the self-indicating, non-automatic, electronic conversion kit for platform weighing machine of type "HC" series of class III accuracy (medium accuracy) and with brand name "HERO" (hereinafter referred to as the Model) manufactured by M/s Hero Hi-Tech Scales Limited, 445-A, Sathy Road, Ganapathy, Coimbatore- 541006, which is assigned the approval mark IND/09/98/80;

The said Model is a medium accuracy (accuracy class III) weighing instrument with a maximum capacity of 300 kg. and minimum capacity of 2 kg. The verification scale interval (e) is 100g. It has a tare device with a 100 per cent subtractive retained tare effect. The load receptor is of rectangular section of side 600 × 600 millimetre. The light emitting diode display indicates the weighing result. The instrument operates on 230 volts and frequency 50 hertz, alternate current power supply.



Further, in exercise of the powers conferred by sub-section (12) of section 36 of the said Act, the Central Government hereby declares that this certificate of approval of the Model shall also cover the weighing instrument of similar make, accuracy and performance of same series with maximum number of verification scale interval (n) less than or equal to 10,000 ($n \leq 10,000$) and with 'e' value to 1, 2, 5 series manufactured by the same manufacturer in accordance with the same principle, design and with the same materials with which the approved Model has been manufactured.

[F. No. WM-21 (50)/97]

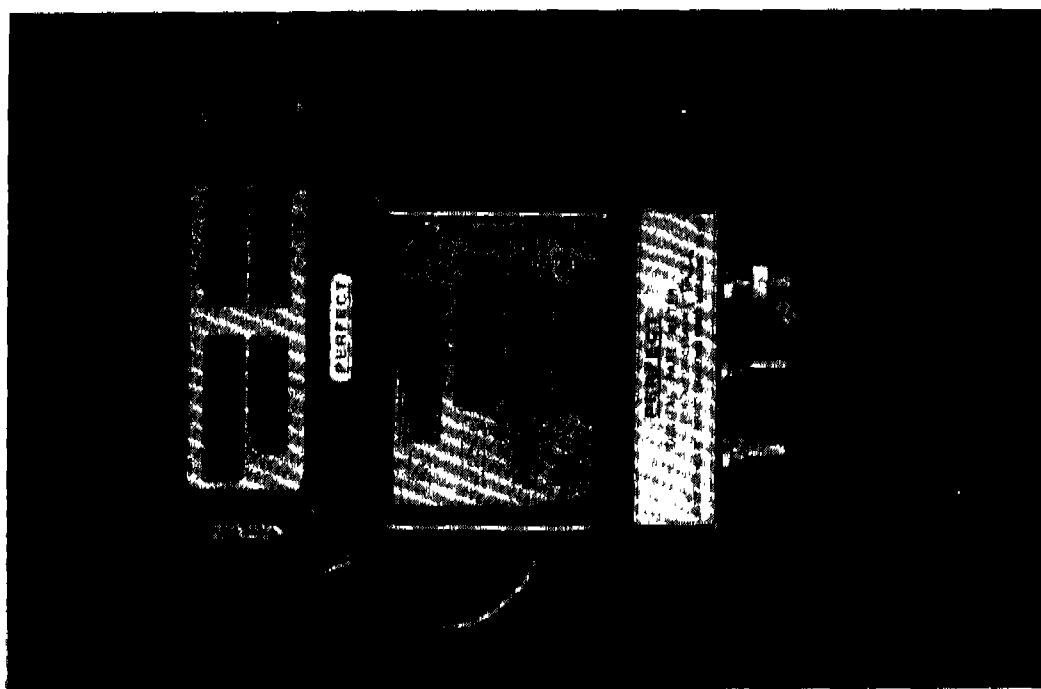
P. A. KRISHNAMOORTHY, Director, Legal Metrology

नई दिल्ली, 9 मार्च, 1999

का. आ. 803.—केंद्रीय सरकार का, विहित प्राधिकारी द्वारा उसे प्रस्तुत रिपोर्ट पर विचार करने के पश्चात्, यह समाधान हो गया है कि उक्त रिपोर्ट में वर्णित माडल (नीचे दी गई आकृति देखें) बाट और माप मानक अधिनियम, 1976 (1976 का 60) और बाट और माप मानक (मॉडलों का अनुमोदन) नियम, 1987 के उपबंधों के अनुरूप है और इस बात की संभावना यह है कि लगातार प्रयोग की अवधियों में भी उक्त मॉडल यथार्थता बनाए रखेगा और विभिन्न परिस्थितियों में उपयुक्त सेवा करता रहेगा;

अतः, केंद्रीय सरकार, उक्त अधिनियम की धारा 36 की उपधारा (7) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, "के. जी.टी/ए 786" की शृंखला की, अंकक प्रदर्श सहित टैक्सी/आटोमीटर के माडल का, जिसके ब्रांड का नाम "परफैक्ट" है (जिसे इसमें इसके पश्चात् माडल कहा गया है) और जिसका विनिर्माण मैसर्स परफैक्ट इंजीनियरिंग वर्क्स, सं. 2, डी स्ट्रीट, जगजीवन राम नगर, बंगलौर-560018 द्वारा किया गया है और जिसे अनुमोदन चिह्न आई.एन.डी./09/98/171 समनुदेशित किया है, अनुमोदन प्रमाणपत्र प्रकाशित करती है।

यह मॉडल "परफैक्ट के जी-टी/ए-786 मीटर शृंखला" का डिजिटल टैक्सी मीटर का है। उपकरण के साथ अंकक प्रदर्शन जिससे रुपये और पैसे में किराया, किलामीटर में दूरी, प्रतीक्षा काल, और भारतीय समय की घड़ी, दूरी और समय मापने की युक्ति का समावेशन होगा। यह यात्री द्वारा देय किराये का योग यात्रा के किसी भी समय लगातार प्रदर्शित करता है। दूरी जिसकी यात्रा की और निश्चित गति पर यात्रा में लगे समय का "देय किराया" प्रकाशित है। यह प्रभार अन्य स्वतंत्र प्रभारों जैसे सामान परिवहन आदि के अतिरिक्त होंगे।



[फा. सं. डब्ल्यू एम-21(70)/98]

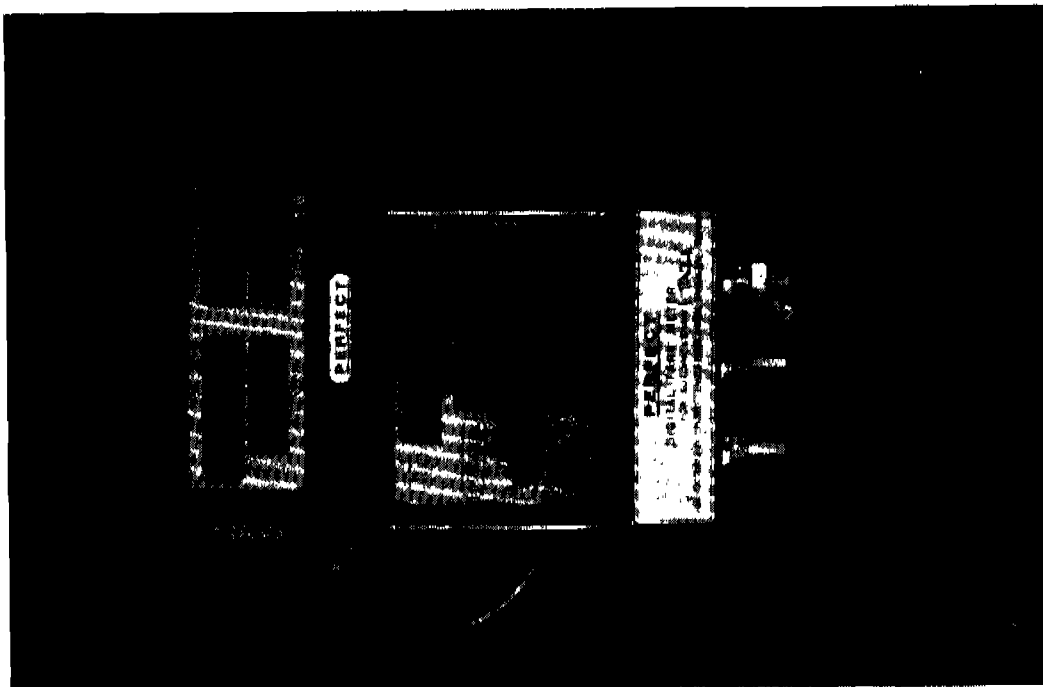
पी. ए. कृष्णमूर्ति, निदेशक, विधिक माप विज्ञान

New Delhi, the 9th March, 1999

S. O. 803.—Whereas the Central Government, after considering the report submitted to it by the prescribed authority, is satisfied that the model described in the said report (see the figure given below) is in conformity with the provisions of the Standards of Weights and Measures Act, 1976 (60 of 1976) and the Standards of Weights and Measures (Approval of Models) Rules, 1987 and the said model is likely to maintain accuracy over periods of sustained use and to render accurate service under varied conditions ;

Now, therefore, in exercise of the powers conferred by sub-section (7) of section 36 of the said Act, the Central Government hereby publishes the certificate of approval of the Model of the Taxi/Auto meter with digital indication and with brand name "PERFECT" (hereinafter referred to as the model) "KG-T/A-786 series" manufactured by M/s Perfect Engineering Works, No. 2, D Street, Jagajivan Ram Nagar, Bangalore 560 018 and which is assigned the approval mark IND/09/98/171;

The said model is a digital taxi meter and is "PERFECT KG-T/A786 Meter series". The instrument is incorporated with a digital indication of fare in rupees and paisa, distance in kilometer, waiting time and clock in Indian Time distance and time measuring device. It totallises continuously and indicates the fare at any moment of journey the charges payable by the passenger. The "fare to pay" is a function of the distance travelled and the length of time occupied below a certain speed. The charges of independent of the other charges like transporting luggage etc.



[File No. WM-21 (70)/98]

P. A. KRISHNAMOORTHY, Director, Legal Metrology

श्रम मंत्रालय

नई दिल्ली, 23 फरवरी, 1999

का. भा. 804.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-99 को प्राप्त हुआ था।

[सं. एन-12012/91/86—डी II (ए)]

सी. गंगधरन, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 23rd February, 1999

S.O. 804.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 19-2-99.

[No. L-12012/91/86-DII(A)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 26/87

In the matter of dispute between :

Shri Sanjeev Kumar, 51, Dasna Gate,
Ghaziabad.

Versus

Assistant General Manager,
Canara Bank, Hanuman Road,
Marshall House, Parliament Street,
New Delhi.

APPEARANCES :

Shri Tara Chand Gupta—for the Workman.

Shri N. C. Sikri with Shri Ravi Sikri—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/91/86-D.II(A) dated 3-4-1987 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the termination of services of Shri Sanjeev Kumar, Peon, by the Management of erstwhile transferor, Laxmi Commercial Bank Limited, now Canara Bank, is justified? If not, to what relief the workman concerned is entitled?"

2. It has been stated by the concerned workman that he worked against the permanent post of Peon at Ghaziabad in the employment of M/s. Laxmi Commercial Bank Limited, now amalgamated with Canara Bank, although, he had worked against the permanent post, yet he was not made permanent and was deprived of the benefits of permanent job. It is further stated that being enraged with a civil suit filed by the concerned workman in the Court of Munsif, Ghaziabad, seeking the relief of being declared permanent, his services were terminated w.e.f. 27-3-1985 in the garb of retrenchment in violation of the provisions of Sections 25(C), 25(G) and 25(N) of the I.D. Act, 1947. As such his termination from service was highly illegal and unjustified. He 713 GL/99—9.

ha, also stated that termination of his services is also illegal in view of the clause 20.7, clause 20.8 and clause 20.12 of the 1st Bipartite Settlement dated 19-10-1966. He has claimed his reinstatement with full back wages and continuity of service.

3. In their written statement, the management have denied the claim of the concerned workman, mainly on the plea that the concerned workman was not in the employment of the erstwhile Bank on the prescribed date, i.e. 24-8-1985, specified in the amalgamation scheme dated 23-8-1985 whereunder the erstwhile Laxmi Commercial Bank Limited was taken over by the respondent Bank, nor any legal proceedings were pending, seeking the alleged claim before any competent court of law or authority on the said date. It is further stressed that the said amalgamation scheme is statutory and no claim can be made above the said scheme, can be entertained.

4. The management have filed nine documents and have examined Shri Rattan Lal Sharma, Senior Manager, Divisional Office, Canara Bank, Meerut, as MW1.

5. The concerned workman has filed 11 documents and has examined himself as WW1.

6. I have heard the representatives of both the parties and have gone through the evidence on record.

7. It is an undisputed fact on record that the concerned workman was in the employment of the erstwhile Bank, namely Laxmi Commercial Bank Limited. His services had been terminated w.e.f. 27-3-1985. It is also not disputed that the erstwhile Bank was placed under moratorium by the Central Government, vide Notification dated 27-4-1985, which remained enforced upto 23-8-1985, followed by the scheme of amalgamation of the erstwhile Bank with the Canara Bank, vide publication dated 23-8-1985 in the Gazette of India, Part-II, Section 3(ii), (Extra-ordinary), wherein the prescribed date had been specified as 24-8-1985 on which the erstwhile bank was taken over by the respondent bank.

8. The main point involved in the present case revolves around the issue as to whether on the prescribed date, specified in the aforementioned amalgamation scheme dated 23-8-1985, the concerned workman was in the employment of the erstwhile Laxmi Commercial Bank Ltd. and/or whether any legal proceedings were pending, seeking redressal of the alleged grievance against the transferor bank in the competent court of law or authority on the prescribed date, i.e. 24-8-1985. Therefore, before touching other contentions raised in the present case by the parties, I find it necessary to examine the facts having bearing on the said issue.

9. Now, let me examine the relevant provisions of the aforementioned amalgamation scheme. Clause 10 of the aforementioned amalgamation scheme dated 23-8-1985 read as under :—

"(10) All the employees of the transferor bank other than those specified in the schedule referred to in the succeeding paragraph shall continue in service and be deemed to have been appointed by the transferee bank at the same remuneration and on the same terms and conditions of service as were applicable to such employees immediately before the close of business on 27th April, 1985 :

Provided that the employees of the transferor bank who have, by notice in writing given to the transferor or the transferee bank at any time before the expiry of one month next following the date on which this scheme has been sanctioned by the Central Government intimated their intention of not becoming employees of the transferee Bank, shall be entitled to the payment of such compensation, if any, under the provisions of the Industrial Disputes Act, 1947 and such pension, gratuity, provident fund and other retirement benefits as may be ordinarily admissible under the rules or authorisations of the transferor bank immediately before the close of business on 27th April 1985 :

Provided further that the transferee bank shall in respect of the employees of the transferor bank who are deemed to have been appointed as employees of

the transferee bank be deemed also to have taken over the liability for the payment of retrenchment compensation in the event of their being retrenched while in the service of the transferee bank on the basis that their service has been continuous and has not been interrupted by their transfer to the transferee bank."

10. 4th paragraph of Clause 2 of the aforementioned amalgamation scheme dated 23-8-1985, read as under :

"If on the prescribed date any suit, appeal or other legal proceedings of whatever nature by or against the transferor bank is pending, the same shall not abate, or be discontinued or be in any way prejudicially affected, but shall subject to the other provisions of this scheme, be prosecuted and enforced by or against the transferee bank."

11. From the foregoing provisions of the aforementioned amalgamation scheme dated 23-8-1985, it is clear that to be entitled to claim any relief from the respondent bank one should have been in the employment of the erstwhile bank on the prescribed date or legal proceedings against the erstwhile Bank must have been pending on the said date. Undisputably, neither the concerned workman was in the employment of the erstwhile Bank on the prescribed date, i.e. 24-8-1985, nor any legal proceedings were pending against the erstwhile Bank on the said date in respect of the alleged claim of the concerned workman. Therefore, I am of the view that the concerned workman has no ground to claim any relief from the respondent bank in view of the aforementioned provisions of the amalgamation scheme, dated 23-8-1985, as such their alleged demand is not justified.

12. In view of the above observations, other contentions raised by the parties, need not be discussed.

13. Hence held that the concerned workman is not entitled to any relief.

14. Award is given accordingly.

Dated. 15th February, 1999.

GANPATI SHARMA, Presiding Officer

नई दिल्ली, 23 फरवरी, 1999

का. प्रा. 805.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-99 को प्राप्त हुआ था।

[स. एल-12012/112/86-डी II (ए)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 23rd February, 1999

S.O. 805.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal New Delhi as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 19-2-1999.

[No. L-12012/112/86-DII(A)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 1/87

In the matter of dispute between :

Shri Pawan Kumar, 153, Sukhi Mal Dasna Gate, Ghaziabad.
2 Shri Brijender Kumar, Lower Bazar, Opposite Oil Mill Gate, Modi Nagar, District Ghaziabad.

Versus

The Manager,
Canara Bank,
Marshall House,
Hanuman Road,
Parliament Street,
New Delhi.

APPEARANCES :

Shri Y. K. Sinha for Shri Pawan Kumar, the workman concerned.

Shri D. P. S. Tyagi for Shri Brijender Kumar, the workman concerned.

Shri N. C. Sikri with Shri Ravi Sikri for the Management.

AWARD

"The Central Government of India in the Ministry of Labour, vide its order No L-12012/112/86-D.II(A) dated 30-12-1986 has referred the following industrial dispute to this Tribunal for adjudication :—

"Whether the demand of the workmen S/Shri Pawan Kumar and Brijender Kumar, Peon-cum-Waterman and Peon, respectively of the erstwhile Laxmi Commercial Bank Ltd., for reinstatement in service by the successor Canara Bank Management w.e.f. 27-3-1985 and 21-6-1985, respectively with consequential benefits, is justified? If so, to what relief the workmen concerned are entitled?"

2. It has been stated by Shri Pawan Kumar, the concerned workman that he was in the employment of the erstwhile Laxmi Commercial Bank Limited since 1-7-1980 against the permanent post of Peon-cum-Waterman and was posted at Ghaziabad. Although he was working against the permanent post, yet he was not made permanent despite request repeatedly, consequent upon which he had filed a civil suit in the court of Munsif, Ghaziabad, seeking relief of declaration of his being permanent, which was not liked by the management, as a result of which his services were terminated w.e.f. 27-3-1985. He has stated that termination of his services is illegal as the same is in violation of Section 25(C), 25(G) and 25(H) of the I.D. Act, 1947. He has claimed his reinstatement with full back wages with continuity of service.

3. Almost similar is the case of the concerned workman, Shri Brijender Kumar, who has stated that he was appointed on daily wages basis w.e.f. 18-3-1979 on the post of peon at the first instance at the Modinagar Branch of erstwhile Laxmi Commercial Bank Limited. Later on, he was posted on the permanent post of Peon w.e.f. 1-7-1982 at Modinagar branch of the erstwhile Laxmi Commercial Bank Limited. He fell ill w.e.f. 21-6-1985 and when he came back to resume his duties on 19-8-1985 with medical fitness certificate, he was told that his services had been terminated w.e.f. 21-6-1985. He filed the case before the Assistant Labour Commissioner (Central) on 1-1-1986, culminating in the present reference. It is further stated that his services could not be terminated during the course of his illness. It is also stated that no compensation has been paid to him as per Section 25-N of the I.D. Act, 1947. He has claimed his reinstatement with full back wages and other consequential benefits.

4. In their written statement, the management have denied the claim of the concerned workmen, mainly on the plea that the concerned workmen were not in the employment of the erstwhile Bank on the prescribed date, i.e. 24-8-1985, specified in the amalgamation scheme dated 23-8-1985 whereunder the erstwhile Laxmi Commercial Bank Limited was taken over by the respondent Bank, nor any legal proceedings were pending, seeking the alleged claim before any competent court of law or authority on the said date. It is further stressed that the said amalgamation scheme is statutory and no claim over and above the said scheme, can be entertained.

5. The management have filed 16 documents and have examined Shri Rattan Lal Sharma, Senior Manager, Circle Office, New Delhi, as MW1.

6. The concerned workmen have filed 28 documents and have examined themselves as MW1 and WW-2.

7. I have heard the representatives for both the parties and have gone through the evidence on record.

8. It is an undisputed fact on record that the concerned workmen were in the employment of the erstwhile Laxmi Commercial Bank Limited. The service of Shri Pawan Kumar had been terminated w.e.f. 27-3-1985, while that of Shri Brijender Kumar were terminated w.e.f. 21-6-1985, respectively. It is also not disputed that the erstwhile Bank was placed under moratorium by the Central Government, vide notification dated 27-4-1985 which remained enforced upto 23-8-1985, followed by scheme of amalgamation of the erstwhile Bank with the Canara Bank, vide publication dated 23-8-1985 in the Gazette of India, Part-II, Section-3 (iv) (Extraordinary), wherein the prescribed date has been specified as 24-8-1985 on which the erstwhile bank was taken over by the respondent bank.

9. The main point involved in the present case revolves around the issue as to whether on the prescribed date, specified in the aforementioned amalgamation scheme dated 23-8-1985, the concerned workmen were in the employment of the erstwhile Laxmi Commercial Bank Ltd., and/or whether any legal proceedings were pending, seeking redressal of the alleged grievance against the transferor bank in any competent court of a law or authority on the prescribed date, i.e. 24-8-1985. Therefore, before touching other contentions raised in the present case by the parties, I find it necessary to examine the facts having bearing on the said issue.

10. Now, let me examine the relevant provisions of the aforementioned amalgamation scheme. Clause 10 of the aforementioned amalgamation scheme dated 23-8-1985 read as under :—

“(10) All the employees of the transferor bank other than those specified in the schedule referred to in the succeeding paragraph shall continue in service and be deemed to have been appointed by the transferee bank at the same remuneration and on the same terms and conditions of service as were applicable to such employees immediately before the close of business on 27th April, 1985.

Provided that the employees of the transferor bank who have, by notice in writing given to the transferor or the transferee bank at any time before the expiry of one month next following the date on which this scheme has been sanctioned by the Central Government, intimated their intention of not becoming employees of the transferee Bank, shall be entitled to the payment of such compensation, if any, under the provisions of the Industrial Disputes Act, 1947 and such pension, gratuity, provident fund and other retirement benefits as may be ordinarily admissible under the rules of authorisations of the transferor bank immediately before the close of business on 27th April, 1985.

Provided further that the transferee bank shall in respect of the employees of the transferor bank who are deemed to have been appointed as employees of the transferee bank be deemed also to have taken over the liability for the payment of retrenchment

compensation in the event of their being retrenched while in the service of the transferee bank on the basis that their service has been continuous and has not been interrupted by their transfer to the transferee bank.”

11. 4th paragraph of Clause 2 of the aforementioned amalgamation scheme dated 23-8-1985, read as under :—

“If on the prescribed date any suit, appeal or other legal proceedings of whatever nature by or against the transferor bank is pending, the same shall not abate, or be discontinued or be in any way prejudicially affected, but shall subject to the other provisions of this scheme, be prosecuted and enforced by or against the transferee bank.”

12. From the foregoing provisions of the aforementioned amalgamation scheme dated 23-8-1985, it is clear that to be entitled to claim any relief from the respondent bank, one should have been in the employment of the erstwhile bank on the prescribed date or legal proceedings against the erstwhile bank must have been pending on the said date. Undisputably, neither the concerned workmen, were in the employment of the erstwhile Bank on the prescribed date, i.e. 24-8-1985, nor any legal proceedings were pending against the erstwhile Bank on the said date in respect of the alleged claim of the concerned workmen. Therefore, I am of the view that the concerned workmen have no ground to claim any relief from the respondent bank in view of the aforementioned provisions of the amalgamation scheme, dated 23-8-1985, as such their alleged demand is not justified.

13. In view of the above observation, other contentions raised by the parties, need not be discussed.

14. Hence held that the concerned workmen are not entitled to any relief.

15. Award is given accordingly.
Dt. 16th Feb. 1999.

GANAPATI SHARMA, Presiding Officer

नई दिल्ली, 23 फरवरी, 1999

का. आ. 806.—औद्योगिक विवाद अधिकार, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबन्धकों के संबंध में नियोज्जकों और उनके कर्मचारों के बीच, संबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण II हैदराबाद के पंचसद को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-2-99 को प्राप्त हुआ था।

[सं. एल-12011/9/97-आई.आर. (बी-II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 23rd February, 1999

S.O. 806.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal-II, Hyderabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Allahabad Bank and their workman, which was received by the Central Government on 19-2-99.

[No. L-12011/9/97-IR(B-II)]

C. GANGADHARAN, Desk Officer.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL-II,
HYDERABAD AT HYDERABAD

PRESENT :

Sri G. Bhoopati Reddy, B.A., LL.B., Chairman.

Dated : 4th September, 1998.

I.D. No. 31 of 1998

(Central)

BETWEEN

The Joint Secretary,
Allahabad Bank Staff Union,
Minerva Complex, S.D., Road,
Secunderabad—500 003.

..Petitioner.

AND

The Regional Manager,
Allahabad Bank,
Minerva Complex, S. D. Road,
Secunderabad—500 003.

..Respondent.

Ref. Govt. of India, Ministry of Labour, Order No.
L-12011/9/97/IR(B.I.), dt. 02-04-1998.

APPEARANCES :

Sri B. Sudhakar, Represented for the Petitioner.
Sri N. Bhaskar, Sr. Manager (Personnel)
Rep.. for the Respondent.

* * *

AWARD

This industrial dispute was referred to this Tribunal U/s. 10(1)(d) by the Central Government to decide the dispute whether the action of the Management of Allahabad Bank in not considering case of S. Y. Narayanaswamy for his transfer ignoring the seniority is legal and justified? If not to what relief he is entitled?

After this I.D., was referred to this Tribunal as per the Central Government, Ministry of Labour, dated 2-4-1998 the petitioner represented by Joint Secretary, Allahabad Bank Staff Union filed a claim statement with the following ground :

It is submitted that Y. Narayanaswamy working at Allahabad Bank Currency Chest submitted request transfer application to Industrial Finance Branch, Secunderabad on 15-3-95. The application of the petitioner was registered in the transfer register at Regional office Allahabad Bank on the same day. It is submitted that M. S. Krishna Murthy working at Santoshnagar branch submitted application for transfer to Industrial Finance Branch. The said application was received on 16-3-95 which was registered in the transfer register as S. No. 2. The petitioner submits that the transfer application of the petitioner has to be considered first as he happens to be No. 1 as per the transfer register. The management of the Allahabad Bank issued transfer order to M. S. V. Krishna Murthy Santoshnagar Branch instead of issuing transfer to Y. Narayanaswamy, it is gross violation

of provision of 1(a) of Instruction Circular No. 2117 dt. 3-5-90. The petitioner completed 5 years of continuous service at Allahabad Bank Currency Chest-whereas M. S. V. Krishna Murthy completed 2 years of service at Santoshnagar Branch of Allahabad Bank. The Management has violated provision 5(a)(iv) of instruction circular No. 2117 dt. 3-5-90 effecting transfer to Junior employees in supersession of application of senior employee.

It is submitted that the Management of Allahabad Bank has entered into an agreement with recognised Union with respect of job rotation and transfer of award staff and the agreement has been circulated, Bank Instruction Circular No. 2117 dt. 3-5-90. The Management of Allahabad Bank has been implementing the provisions of the circular. The petitioner prayed to direct the management of Allahabad Bank to effect the transfer of Y. Narayanaswamy to Industrial Finance Branch.

Respondent filed a counter, allegations made in the claim statement are false. It is false to say that the respondent has violated provisions of instruction circular No. 2117 dt. 3-5-90 in effecting the transfer of M. S. V. Krishna Murthy in supersession application of Y. Narayanaswamy. Respondent submits that one special category branch i.e., Industrial Finance Branch opened at Secbad on 10-11-95. It is submitted that M. S. V. Krishna Murthy Cashier-incharge-E submitted his request transfer application to the Manager, Santoshnagar Branch, Hyderabad on 14-3-95. The Manager has forwarded the application to the Regional Office on the same day in the request transfer application dt. 14-3-95. The Manager has put the branch seal and initialed it on the same day on 14-3-95 and forwarded the same to Regional Office. It was entered in the request transfer register on 16-3-95. The Santoshnagar Branch is far of from Regional Office, Hyderabad, M. S. V. Krishna Murthy, Santoshnagar has already applied transfer on 4-7-94 for request to transfer to any of the Branches. Viveknagar Branch, Hyderabad Main Branch, Himayathnagar. The said request Transfer already entered in the register transfer on 4-7-94. In continuation of the above said request transfer he has applied again on 14-3-95 for Industrial Finance Branch, Secunderabad.

It is submitted Y. Narayanaswamy cashier incharge E. Currency Chest submitted transfer application on 15-3-95 and the same has been forwarded to the Regional Office Hyderabad, on the same day and it was registered in the Transfer Register. It is false to say that Krishna Murthy transfer application is subsequent to transfer application of Y. Narayanaswamy. It is submitted that Krishna Murthy submitted transfer application on 4-7-94 the 2nd transfer application is the continuation of 1st transfer application. It is false to say that the respondent has affected the transfer of Krishna Murthy, unfair labour practices were resorted. It is false to say the respondent interfered functioning of organisations of the staff by the Management of the Bank. The Bank never indulged in the past or never indulged in future in uniform practice as alleged by the petitioner. The petitioner is not entitled for consideration of the transfer, the I.D., may be dismissed.

On the basis of pleading the following point that arises for determination. "Whether the transfer effected by the Management transferring K. S. V. Krishna Murthy to Secunderabad Branch ignoring the seniority of Narayana Swamy is legal? If so what kind of relief the petitioner is entitled to?"

The petitioner submits that he is the senior to Krishna Murthy, while effecting the transfer of M.S.V. Krishna Murthy ignoring his claim violation of the circular Ex. W1.

Respondent resisted the plea that the transfer of Krishna Murthy was effected as he submitted 2nd transfer application which is continuation of 1st transfer application dt. 4-7-94. The respondent has not violated effecting the transfer of M. S. V. Krishna Murthy. The petitioner is not entitled for any claim effecting transfer. The burden of proof lies on the petitioner.

In support of the petitioner claim petitioner himself, examined as W.W. 1 and filed Ex. W1.

To rebut the petitioner's evidence M.W.1 M. S. V. Krishna Murthy Examined. M.W.2 C. V. Ramana Reddy, Branch Manager Chikkadpally branch examined. Ex. M1 to M2 filed.

W.W.1 Y. Narayana Swamy deposed that he was working as Head Cashier-E in respondent Bank from 7 years, onwards. On 15-3-95 he made request transfer application to Secunderabad Industrial Finance Branch. Ex. W1 is the circular issued by General Manager dt. 3-5-90 regarding the request transfers. One M. S. V. Krishna Murthy made 1st transfer application on 4-7-94 the transfer was not effected, subsequently M.S.V. Krishna Murthy applied 2nd transfer application his transfer application was considered, posted to I.F.B. Secunderabad.

To rebut the petitioner evidence M.W.1 M.S.V. Krishna Murthy examined, deposed that while he was working as Cashier Incharge 'E' Category, Santoshnagar Branch he has applied transfer. The 1st transfer application was not considered by the Management. He applied for transfer on 14-3-95 to Secunderabad Industrial Finance Branch. Ex. M1 is the transfer application dt. 14-3-95. In pursuance of the said transfer application he was transferred to Secunderabad Branch.

M.W.2, C. V. Ramana Reddy deposed that while he was working as Branch Manager, Santoshnagar branch in the year 1995 on 14-3-94 M.W.1 submitted transfer application on the same day he sent the transfer application to regional office. Ex. M2 is the forwarding letter.

Petitioner representative submits that as per the Ex. W1 circular i.e., Memorandum of settlement dt. 3rd March, 1990 on job rotation transfer of Award staff, is binding on the management as well as workers Union. The said circular was issued by Dy. General Manager the respondent violated circular clause 1(a) and Circular 5(a)(iv) was violated the transfer of Krishnamurthy was effected which is illegal. Respondent submits that there was already a revised circular was issued which is in

force there is no violation of effecting the transfer of Krishnamurthy

The respective submissions made by the petitioner representative and respondent are concerned Ex. W1 is the circular issued on 3-5-90 which is binding on the Management and workers Union. The respondent has not taken plea in counter about issue of revised circular. The respondent has first time taken the plea the transfer was effected as per the revised circular. The petitioner representative submits that the respondent effected the transfer of Krishna Murthy which is violation of the circular No. 1198 Clause 1-A. The submission made by the petitioner representative is concerned as per the clause 1(a) the transfer of Award staff request will be considered on the basis of first come first serve. According to date of application received and transfer register will be maintained at regional zonal office for the purpose. Each employee can request for maximum 3 stations in order of preference and the actual S. No. of the station will be intimated to the concerned employee. In our present case is concerned as per the petitioner evidence discloses that while he was working as head cashier Category 'E' in respondent Bank on 15-3-95 he made request transfer application from currency chest to Secunderabad Industrial Finance Branch. As per the transfer register maintained at Zonal office the petitioner transfer application was received in the zonal office discloses that the petitioner transfer application as registered on 15-3-95. Whereas M.S.V. Krishna Murthy transfer application was registered on 16-3-95. As per the transfer register itself discloses that the petitioner applied transfer in first. The respondent submits that Krishna Murthy applied transfer on 14-3-95 itself M.W.2 has sent the said transfer application of Krishna Murthy along with covering letter Ex. M2. Ex. M1 is the transfer application of Krishna Murthy. The respondent taken a plea in Counter that the 2nd transfer application is a continuation of 1st transfer application made by Krishna Murthy. The 1st transfer application was made on 14-7-94 the 2nd transfer application to be taken as a continuation of 1st transfer application. The submission made by the respondent is not sustainable. On the other hand M.W.2, S. V. Ramana Reddy is the Branch Manager, Chikkadpally who has forwarded the transfer application of the Krishna Murthy on 14-3-95. He did not depose that the 2nd transfer application is the continuation of the 1st transfer application. The plea taken by the respondent is quite contra to that of the evidence lead by M.W. 2. Moreover on perusal of the covering letter discloses that the transfer application is received on 16-3-95, zonal office. On 16-3-95 the said transfer application of Krishna Murthy was registered, in the transfer register. The respondent without considering the 1st transfer application of the petitioner the 2nd transfer application of Krishna Murthy was considered Krishna Murthy transfer effected. On the other hand M.W.1 Krishna Murthy himself admitted that on 4th July, 1994 he was promoted from 'C' Category to 'E' Category. After transfer he was joined in Santoshnagar Branch immediately after joining he has applied transfer to the following places i.e. Secunderabad, Hinayannagar, Viveknagar, Balanagar, Maruthinagar. He also took classified that the 1st

transfer application was not considered so he has applied 2nd transfer application Ex. M1. On perusal of Ex. M1 there is mention about earlier transfer application. The respondent has taken inconsistent plea. On the other hand M. S. V. Krishna Murthy has mentioned in transfer application about his 1st transfer application reply was received from the Bank but that reply was not filed in the Court. The respondent has violated effecting transfer of Krishna Murthy which is violation of the instruction circular No. 2117 of Clause 1(a) of Memorandum of settlement.

The petitioner representative further submits that as for the clause 5(a)(iv) atleast 5 years continuous service at a branch request transfer will be considered. The respondent violated the circular effected the transfer of Krishna Murthy respondent resisted the plea, the respondent has not violated the circular, Ex. W1.

The submission made by the petitioner, representative is concerned as per the evidence of W.W.1 discloses that the petitioner is working as Head Cashier Category 'E' in respondent bank 7 years onwards, whereas the evidence of M.W.1 discloses that he is working in Santoshnagar branch from 1994 onwards during this period he has made 2 request transfer applications, he has not completed 5 years of service. To support the claim by the respondent M.W.2 Branch Manager Chikkadpally examined he also admitted that he was not aware of the circular Ex. W1 and M.W.1 is working from 1994 onwards. Moreover Krishna Murthy was transferred to Santoshnagar Branch on promotion immediately after his transfer he applied for transfer, considering the transfer application of Krishna Murthy violation of Ex. W1 circular. As per the said circular atleast 5 years continuous service then only eligible for request transfer, on the other hand Krishna Murthy joined Santoshnagar Branch on promotion worked for a period of just completed 2 years. The transfer effected by the management violated the provision 5(a)(iv) of Instruction Circular No. 2117 for effecting transfer. Apart from this Krishna Murthy is a Junior to petitioner considering the transfer of Junior ignoring the claim of petitioner which is violation. The respondent has not lead any evidence to justify the effecting the transfer of Krishna Murthy.

The action of the Management of Allahabad Bank not considering the transfer of the petitioner ignoring his seniority the respondent committed illerality, effected the transfer of Krishna Murthy. The action taken by the respondent is not justifiable. The petitioner has made out a ground for effecting his transfer as per circular. The respondent is directed to effect the transfer of the petitioner as per circular.

The award is passed. The award shall come into force U/s 17-A of the I.D. Act after publication of the award after one month.

Dictated to typist, corrected by me given under my hand and seal of this Tribunal on this the 4th September, 1998.

G. BHOOPATHI REDDY, Chairman

APPENDIX OF EVIDENCE

LIST OF WITNESSES EXAMINED

For Petitioner :—

W.W.1 : Sri Y. Narayana Swamy.

For Respondent :—

M.W.1 : Sri M.S.V. Krishna Murthy.

M.W.2 : Sri C.V. Ramana Reddy.

LIST OF DOCUMENTS MARKED

For Petitioner :—

Ex. W1 : 03-05-1990 : Xerox copy of circular issued by Allahabad Bank.

For Respondent :—

Ex. M1 : 14-03-95 : Xerox copy of letter of M.S.V. Krishna Murthy addressed to Management.

Ex. M2 : 14-03-95 : Xerox copy of letter of Management.

नई दिल्ली, 24 फरवरी, 1999

का. आ. 807.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कार्यकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-2-99 को प्राप्त हुआ था।

[सं.-एल/12012/6/96-आई.आर. (बी. II)]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 24th February, 1999

S.O. 807.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 28-2-99.

[No. L-12012/6/96-IR(B-II)]

C. GANGADHARAN, Desk Officer

अनुबंध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय,

जोधपुर

पीठासीन अधिकारी :—श्री चांदमल शोतला, आर.एच. जे. एस.

श्री. विवाद (केन्द्रीय) सं. :—6/1997

श्री नरेन्द्र गिरी पुत्र गुलाबगिरी, दाऊदाल गिरी का मठ, फलोदी, जोधपुर।

..प्राथी

बनाम

श्री बांच मैनेजर, यूको. बैंक, फलोदी, जोधपुर।

..अप्राथी

उपस्थिति :—

- (1) प्रार्थी प्रतिनिधि श्री विजय मेहता उप.
- (2) अप्रार्थी प्रतिनिधि श्री अनन्तराम उप.

अधिनियम

दिनांक : 06-1-1999

श्रम मंत्रालय, भारत सरकार की विज्ञप्ति संख्या एल. 12012/006/96 दिनांक 10-4-97 से श्रमिक कर्मचारी तथा उसके नियोजन के मध्य उत्पन्न हुआ निम्नांकित श्रम विवाद अधिनियम हेतु इस श्रम न्यायालय को प्रेषित किया गया तथा दिनांक 2-5-1997 को नियमित विवाद संख्या 6/97 पंजीबद्ध हुआ :—

“Whether the action of the Branch Manager, UCO Bank Phalodi (Jodhpur) in terminating the service of Shri Narendra Gini from 21-3-94 is legal, just and proper ? If not, to what relief the said workmen is entitled ?”

उपरोक्तानुसार विवाद दिनांक 21-3-1994 से की गई प्रार्थी की कथित सेवा मुक्ति की वैधानिकता से संबंधित है तथा प्रार्थी कर्मचारी ने इसे अवैधानिक व अनुचित बताते हुए प्रस्तुत किए अपने मांग-पत्र में बताया है कि उसे उसके नियोजक विपक्षी बैंक में सर्वप्रथम फलोदी शाखा में चतुर्थ श्रेणी कर्मचारी के रिक्त पद पर अप्रैल 1986 में नियुक्त किया गया, उस समय इस श्रेणी के कर्मचारियों के वहां वो पद रिक्त थे — कि प्रार्थी को नियमित रिक्त पद पर नियोजित किया गया परन्तु केवल दैनिक वेतन ही दिया जाता था जबकि द्विपक्षीय समझौते की धारा 20.7 के अनुसार वह स्थाई कर्मचारी था तथा चतुर्थ श्रेणी कर्मचारी का स्थाई प्रकृति का कार्य कर रहा था, उसकी सेवाएं 5-3-87 को मौखिक आदेश से समाप्त कर दी गई जिसे चुनौती देते हुए उसने सम्माननीय उच्च न्यायालय में रिट याचिका संख्या 992/87 प्रस्तुत की जिसमें 4-11-93 के आदेश से प्रार्थी की सेवा पृथक्ता का आदेश निरस्त किया गया— 4-11-1993 के आदेश की पालना में प्रार्थी को 12-3-1994 के आदेश से पुनर्स्थापित किया गया तथा प्रार्थी ने 15-3-94 को कार्यभार ग्रहण कर लिया परन्तु 21-3-94 के आदेश से विपक्षी ने तुरन्त प्रभाव से प्रार्थी को सेवा से अलग कर दिया तथा सेवा पृथक्ता के इस आदेश के साथ 1800/- रुपये का एक चेक भी प्रार्थी को दिया गया। आवेदन के अनुसार प्रार्थी अप्रैल 1986 से लगातार नियोजित था तथा विधि के प्रावधानों के अनुसार उसने 21-3-94 की सेवापृथक्ता के पूर्व के एक वर्ष में 240 दिनों से अधिक दिवसों तक कार्य भी कर लिया था तथा प्रार्थी की सेवा समाप्ति से पूर्व उसे एक माह का नोटिस या नोटिस वेतन व क्षतिपूर्ति मुआवजा नहीं दिया गया — प्रार्थी कनिष्ठतम कर्मचारी नहीं था व राज्य सरकार को भी छंटनी की सूचना नहीं दी गई।

यह भी बताया गया कि विपक्षी शाखा मैनेजर प्रार्थी को सेवा से पृथक् करने के लिए सक्षम अधिकारी नहीं था तथा विपक्षी ने रिट याचिका के उत्तर में बताया कि नियुक्ति के अधिकार केवल हर्ड आफिस को ही हैं। आवेदन में यह भी प्रकट किया गया है कि राजस्थान शाप एण्ड कोर्म-शियल एस्टेबलिशमेंट के अन्तर्गत विपक्षी बैंक एक वाणिज्यिक संस्थान है तथा राज्य द्वारा निर्धारित न्यूनतम वेतन इस संस्थान पर प्रभावी होता है व 1994 में दैनिक न्यूनतम वेतन 22/- रुपये या 585.67 पैसे प्रतिमाह था व केन्द्रीय सरकार ने इससे और अधिक न्यूनतम वेतन निर्धारित किया हुआ है परन्तु प्रार्थी को दिया गया चेक 1800/- इस उत्तर के अनुसार नहीं है व न्यूनतम वेतन से कम वेतन दिया ही नहीं जा सकता। यह भी बताया गया कि प्रार्थी से कनिष्ठ कर्मचारियों को नियोजित रखा गया तथा पैरा-9 में ऐसे पांच कर्मचारियों का वर्णन देते हुए उन्हें सोजती गेट सरबारपुरा, पावटा शाखा पर 40 व 30 प्रतिशत दैनिक वेतन पर नियोजित बनाया गया। यह भी प्रकट किया गया कि प्रार्थी से कनिष्ठ को न केवल नियोजन में रखा गया बल्कि उन्हें 30/- रुपये प्रतिदिन की दर से वेतन भी दिया जा रहा है जब कि प्रार्थी को 12/- रुपये प्रतिदिन के हिसाब से चेक का भुगतान किया गया तथा इस तरह प्रार्थी की सेवा समाप्ति में अधिनियम की धारा 25-जी, एच व नियम-77 का पूर्णतया उल्लंघन किया गया। प्रार्थी को सेवा में पुनर्स्थापित करने तथा सेवाएं निरन्तर मानने के साथ ही सम्पूर्ण अवधि का सम्पूर्ण वेतन व अन्य परिलाभ व व्यय कार्यवाही दिलाये जाने की प्रार्थना की गई।

विपक्षी के उत्तर के अनुसार प्रार्थी को कभी भी नियमित कर्मचारी के पद पर नियुक्त नहीं किया गया था। नियुक्ति के लिए सक्षम अधिकारी द्वारा कभी भी नियुक्त नहीं किया गया तथा ऐसी नियुक्ति के लिए शाखा प्रबंधक को कोई अधिकार प्रदत्त नहीं थे। उत्तर के अनुसार चतुर्थ श्रेणी कर्मचारी के पद पर नियुक्तियां सक्षम अधिकारी बैंक का मुख्यालय है जिसके द्वारा भी नियमानुसार ही नियुक्ति दी जा सकती है। उत्तर में बताया गया है कि प्रार्थी का केवल मात्र सफाई करने व पानी भरने हेतु 12/- रुपये दैनिक मजदूरी पर संविदा पर नियुक्त किया गया तथा काम के अनुसार संविदा के अन्तर्गत दैनिक मजदूरी दी जाती थी तथा प्रार्थी पूर्णकालिक कार्य नहीं करता था बल्कि कुछ समय के लिए ही सफाई व पानी भरने का कार्य करता था व प्रार्थी की सेवा की आवश्यकता नहीं रही अतः 5-3-87 को उसे कार्य पर नहीं आने के लिए कहा गया था। उत्तर में बताया गया कि प्रार्थी के द्वारा की गई याचिकाओं में सम्माननीय उच्च न्यायालय ने 1-11-93 के आदेश से प्रार्थी की सेवा पृथक्ता को निरस्त किया परन्तु साथ ही यह भी उल्लेख किया गया कि धारा 25-ए के प्रावधानों की पालना करते हुए एक माह का वेतन 360 व क्षतिपूर्ति 1440 कुल 1800/- रुपये भुगतान करते हुए प्रार्थी की सेवाएं समाप्त की

गई। उत्तर में बताया गया कि सेवाएं समाप्त करने का विपक्षी को पूरा अधिकार था तथा विधि के प्रावधानों की पालना करने हुए सेवाएं समाप्त की गई है। उत्तर में यह भी बताया गया है कि प्रार्थी की सेवाएं अंशकालीन थी अतः न्यूनतम वेतन संबंधी प्रावधान लागू नहीं होते तथा राज्य व केन्द्रीय सरकार द्वारा निर्धारित न्यूनतम वेतन भी इस मामले में लागू नहीं होता व प्रार्थी को संविदा के आधार पर 12 रुपये प्रतिदिन वेतन दिया जाता रहा है व राज. शाप एवं कोमर्शियल एस्टेबलिशमेंट एक भी विपक्षी राष्ट्रीयकृत बैंक पर प्राधी नहीं है। आवेदन में अंकित कथित प्रार्थी से कनिष्ठ कर्मचारियों के संबंध में प्रकट किया गया कि उन लोगों व प्रार्थी के बीच वरिष्ठता का कोई भ्रम नहीं है तथा प्रार्थी को केवल अंशकालीन कार्य पर रखा गया था व इसके अतिरिक्त यह व्यक्ति कभी भी फलोदी शाखा में नियोजित नहीं रहा व जिन व्यक्तियों का नाम बताया गया है उनको कभी वेतन शाखा, फलोदी द्वारा नहीं दिया गया। इससे इन्कार किया गया कि अधिनियम या किसी नियम के प्रावधानों का उल्लंघन किया गया तथा व्यय सहित आवेदन अस्वीकार किए जाने की प्रार्थना की गई।

साक्ष्य में प्रार्थी की ओर से स्वयं प्रार्थी श्री नरेन्द्रगिरी का शपथ-पत्र प्रस्तुत किया गया जिसमें आवेदन में अंकितानुसार बताया गया तथा विपक्षी की ओर से बैंक की फलोदी शाखा के वर्तमान प्रबन्धक श्री अनन्तराम का शपथ-पत्र प्रस्तुत किया गया जिसमें उत्तर में अंकितानुसार बताया गया। इन शपथ पत्रों पर साक्षीगण से प्रतिपरीक्षण भी हुआ। प्रार्थी की ओर से उसके द्वारा प्रस्तुत की गई रिट याचिका उसका विपक्षी द्वारा दिया गया उत्तर सम्माननीय उच्च न्यायालय का निर्णय व 12-3-94 के पुनर्स्थापन के आदेश व 21-3-94 के सेवासमाप्ति के आदेश की प्रतिलिपियां प्रस्तुत की गईं। प्रार्थी की ओर से विपक्षी को 31-3-90 के परिपत्र की प्रतिलिपि प्रस्तुत की गई। विपक्षी की ओर से लिखित तर्कों के साथ में सम्माननीय उच्च न्यायालय के आदेश की प्रमाणित प्रतिलिपि भी प्रस्तुत की गई।

उभयपक्ष के प्रतिनिधिगण के तर्क सुने पत्रावली का अवलोकन किया।

इस प्रकरण के निर्धारण के लिए जो महत्वपूर्ण तथ्य हैं वे मोटे तौर पर स्वीकृत प्रतीत होते हैं—विपक्षी के अनुसार प्रार्थी को बैंक में भविष्य वेतन व क्षतिपूर्ति देकर के भुगतान किया गया—प्रार्थी इसे स्वीकार करता है, तिथि रकम इत्यादि तमाम स्वीकृत स्थिति है। प्रार्थी को सर्वप्रथम कब नियुक्त किया गया तथा उस समय प्रार्थी का क्या वेतन था, यह भी स्वीकृत प्रतीत होता है प्रार्थी ने प्रतिपरीक्षण में बताया है कि अभी फलोदी शाखा में चतुर्थ श्रेणी कर्मचारी का पद रिक्त नहीं है, लेकिन जब उसे नियोजित किया गया तब पद रिक्त था तथा उसे 12 रुपये प्रतिदिन के हिसाब से भुगतान किया जाता था। प्रार्थी ने यह स्वीकार किया है कि उसे 1800 रुपये का बैंक दिया था तथा प्रार्थी के अनुसार सर्वश्री इन्द्र प्रकाश, प्रिनसिपल एवं कमलचौधरी, हनुमान एवं ओमप्रकाश उसके बाद में तौकरी पर

लगे थे व इन पांचों में से कभी भी कोई भी फलोदी शाखा में नियुक्त नहीं रहा। विपक्षी फलोदी शाखा के प्रबन्धक ने प्रतिपरीक्षण में बताया है कि प्रार्थी को 12 रुपये प्रतिदिन वेतन दिया जाता था तथा तत्समय मैनेजर प्रभुदत्त धानवी थे तथा उनके द्वारा रिट याचिका के प्रस्तुत किये गये उत्तर प्रदर्श डी-1 है। प्रार्थी द्वारा बनाये पांचों अन्य कर्मचारियों के संबंध में विपक्षी के गवाह ने प्रकट किया है कि यदि वे कनिष्ठ हों तथा उल्लेखित शाखाओं में नियोजित किये गये हों तो उसे जानकारी नहीं है। यहां पर यह भी उल्लेख कर देना उचित है कि इन पांचों में से कोई भी कभी भी फलोदी शाखा में नियोजित नहीं रहा तथा यह स्वीकृत स्थिति है कि प्रार्थी को फलोदी शाखा में इसी शाखा के प्रबन्धक द्वारा ही नियुक्त किया गया।

सम्माननीय उच्च न्यायालय की रिट याचिका संख्या 992/87 में दिनांक 1-11-93 के निर्णय का ध्यानपूर्वक अवलोकन किया गया। इसके महत्वपूर्ण अंश इस प्रकार है :—

"It is not in dispute that the petitioner was appointed as Class IV employee in the month of April, 1986 and he continued to serve the respondent bank upto 5-3-1987 when his services were terminated by a verbal order. The petitioner, therefore, served the respondents for 322 days. As the petitioner has served the respondents for more than 240 days in a calendar year, therefore, before terminating his services, it was necessary for the respondents to have complied with the provisions of Section 25-B of the Industrial Disputes Act, 1947 which is mandatory in nature, but the compliance of the provisions of Section 25-F of the Act, 1947, was not made. Neither any notice of one month was given to the petitioner nor was he paid the wages for one month in lieu of the notice. Even retrenchment compensation was not given to the petitioner. The compliance of Section 25-F of the Industrial Disputes Act, 1947, has thus, not been made. The termination of the service of the petitioner without complying with the provisions of Section 25-F(a) and (b) of the Act, 1947 is therefore, wholly illegal and deserves to be quashed and set aside."

In the result, the writ petition, filed by the petitioner, is allowed. The order, terminating the services of the petitioner, is set aside and the respondents are directed to reinstate the petitioner in service with all the back wages. The respondents will, however, be free to terminate the services of the petitioner after complying with the procedure provided under Section 25-F of the Industrial Disputes Act, 1947."

इस तरह स्थिति यह रह जाती है कि प्रार्थी फलोदी शाखा में अप्रैल 86 में नियोजित हुआ तथा 21-3-1994 जब कि उसकी सेवाएं समाप्त की गई वह लगानार सेवा में था।

प्रतिनिधी प्रार्थी ने तर्क दिया है कि बैंक के परिपत्र के अनुसार मार्च 1994 में न्यूनतम वेतन 41 रुपये प्रतिदिन से कम नहीं दिया जा सकता तथा उस समय न्यूनतम वेतन भी 22 रुपये प्रतिदिन था अतः किसी भी परिस्थिति में किसी कर्मचारी को 22 रुपये से कम नहीं दिया जा सकता था अतः 1800/- रुपये की दी गई राशि काफी कम है, परिणामस्वरूप 25-एफ के प्रावधानों की पालना नहीं हुई। प्रार्थी की ओर से तर्क दिया गया कि चूंकि धारा 25-एफ के

प्रावधानों की पालना नहीं हुई अतः प्रार्थी सम्पूर्ण नामों मजिस्ट्रेट सेवा में पुनर्स्थापित किया जाना चाहिये।

प्रतिनिधि विपक्षी ने तर्क दिया है कि प्रार्थी अंशकालीन दैनिक वैतनिक कर्मचारी था जिसे पूरे दिन कार्य करने वाले कर्मचारी के अनुसार न्यूनतम वेतन देय नहीं होता था—विपक्षी राष्ट्रीयकृत बैंक है अतः ओप एण्ड कोमिशन एस्टबलिशमेंट एक्ट के प्रावधान लागू नहीं होते। प्रार्थी को केवल अंशकालीन कार्य करने के लिए तथा वह भी कुछ समय करने के लिए, अर्थात् अंशकालीन तौर से संविदा के आधार पर नियुक्त किया गया था—12/- रुपये प्रतिदिन दिये जाते थे तथा चूंकि प्रार्थी अंशकालीन था तथा न्यूनतम वेतन भी 12 रुपये प्रतिदिन दिया गया अतः इसी दर से प्रार्थी को 25-एफ के अनुसार राशि देय होनी थी जो रुपये 18 दे दिये गये हैं। विपक्षी की ओर से तर्क दिया गया कि चार माह के वेतन के बराबर क्षतिपूर्ति की राशि तथा एक माह का क्षतिपूर्ति नोटिस वेतन कुल पांच माह के वेतन की राशि 360 रुपये प्रतिमाह की दर से रुपये 1800/- का चेक प्रार्थी को सेवा समाप्ति के साथ ही दिया गया। विपक्षी की ओर से इस पर विशेष बल दिया गया कि सम्माननीय उच्च न्यायालय ने धारा 25-एफ के प्रावधानों की पालना करते हुए प्रार्थी को सेवा से पृथक् करने की स्वतंत्रता दी थी। विपक्षी की ओर से तर्क दिया गया है कि यदि कोई तकनीकी या औपचारिक त्रुटि या कमी रह गई है तो प्रार्थी को अब सेवा में पुनर्स्थापित नहीं किया जाना चाहिये तथा इस तरह के कर्मचारियों का नियोजन अब संस्थान में नहीं किया जाना विपक्षी की ओर से यह भी तर्क दिया गया कि यदि किसी तरह की कोई तकनीकी कमी रह गई है तो उपयुक्त बैकलिक अनुतोष दिलाया जा सकता है। विपक्षी की ओर से पञ्चमानेय उच्चतम न्यायालय की व्यवस्था 1997(9) सुप्रीम-428-देना बैंक बनाम बीतीकुमार टी० पटेल का उल्लेख करते हुए बताया गया कि धारा 17“बी” के अन्तर्गत कर्मचारी को दी गई अन्तिम वेतन दर के अनुसार राशि दी जाती है। तर्क दिया गया कि इसी तरह 25-एफ के प्रावधानों के अन्तर्गत भी राशि उस दर से देय होती है जिस दर से कि प्रार्थी को पारिश्रमिक दिया जाता था।

प्रतिनिधि प्रार्थी ने तर्क दिया है कि धारा 25-एफ के प्रावधानों का उल्लेख करते हुए सेवा समाप्ति पूर्णतया शुन्य है तथा पुनर्स्थापित किया जाना चाहिये। इन तर्कों के समर्थन में विभिन्न व्यवस्थाएँ प्रस्तुत की गई जिनका आदिपूर्वक अवलोकन किया जो इस प्रकार से है :—

- (1) 1998 लेबर लॉ रिपोर्ट 586-एग्जीक्यूटिव इंजीनियर गद्दी बनाम कालिया व अन्य
- (2) 1998 लेबर लॉ रिपोर्ट 583-स्टेट आफ राज. बनाम रामकुमार
- (3) आर.एल.डब्ल्यू, 1996(3) राज. 184 जगदीश प्रसाद बनाम जयपुर डेवलपमेंट ओथोरिटी

- (4) आर.एल.डब्ल्यू. 1975 131-राज. उच्च न्यायालय उदयपुर मिशनर डेवलपमेंट सिन्डीकेट प्रा. लि. बनाम एम. पी. दवे
- (5) सर्विस लॉ रिपोर्ट 1998(1) 755-राज. एण्डिया रेडियो बनाम श्री संतोष कुमार व अन्य
- (6) वेस्टन लॉ कमेंट राज. (यू. सी.) 1998-328-उच्च न्यायालय बीरेंद्र कुमार बनाम दी नेशनल कोर्ट
- (7) 1984(1) एम. एल. आर. 212 उच्चतम न्यायालय शम्भूताथ गोयल बनाम बैंक ऑफ बड़ोदा
- (8) सर्विस लॉ रिपोर्ट 1996(1) 56-चीफ क्लर्क-वेटर आफ फोरेस्ट बनाम जगन्नाथ मारुति

विपक्षी की ओर से तर्क दिया गया है कि प्रार्थी दैनिक वेतन पर था तथा प्रार्थी नियमित कर्मचारी नहीं था व नियुक्ति भर्ती व चयन की प्रक्रिया अपनाये जाते हुए उसे नियुक्त नहीं किया गया था।

प्रार्थी द्वारा विपक्षी बैंक का 31-3-90 का परिपत्र प्रस्तुत किया गया है जिसे विपक्षी की ओर से नकारा नहीं गया है। 31-3-90 के इस परिपत्र के अनुसार दैनिक वैतनिक कर्मचारियों को 44/- रुपये प्रतिदिन की दर से भुगतान किया जाता था—तीन श्रेणियाँ 41, 43, व 44/- रुपये प्रतिदिन क्षतिपूर्ति भत्ते के अनुसार बनाई गई है तथा यह राशि 1-4-90 से दी जा रही है। प्रार्थी का सर्वप्रथम नियोजन अप्रैल 1986 में हुआ तथा मार्च 1987 में उसकी सेवाएँ समाप्त की गई, जिस अवधि में यदि बैंक ने अपनी कोई दर निर्धारित रखी है तो वह प्रकट नहीं की गई है। धारा 17-बी के अन्तर्गत अन्तिम बार जिस दर से वेतन दिया गया है उस दर से गणना करनी होती है परन्तु यह राशि न्यूनतम वेतन से कम नहीं हो सकती। विधि का यह प्रावधान अत्यन्त स्पष्ट है कि धारा 17-बी के अन्तर्गत न्यूनतम दर से कम दर पर वेतन राशि देय नहीं होती तथा उस परिस्थिति में न्यूनतम वेतन के अनुसार राशि अदा की जाती है। इसी तरह से धारा 25-एफ के अन्तर्गत राशि की गणना न्यूनतम वेतन दर से कम दर से नहीं हो सकती। यहां यह उल्लेख किया जा सकता है कि अप्रैल 1987 में राज्य-सरकार का न्यूनतम वेतन 14/- रुपये प्रतिदिन था तथा प्रार्थी को 12/- रुपये प्रतिदिन दिया जाता था। इस तरह इस निष्कर्ष को बल मिलता है कि प्रार्थी के समकक्ष कर्मचारियों को राज्य सरकार द्वारा निर्धारित न्यूनतम का लगभग 80-90 प्रतिशत दिया जाता था अप्रैल, 1994 में राज्य-सरकार द्वारा निर्धारित न्यूनतम दर 22/- रुपये ही थी जिसके अनुसार आकलन करने पर प्रार्थी की तरह के कर्मचारियों को 17-18 रुपये प्रतिदिन होना चाहिए। किसी भी परिस्थिति में जब कि 1-4-90 को बैंक में दैनिक वैतनिक कर्मचारियों का न्यूनतम वेतन 41 से 43 रुपये प्रतिदिन कर दिया गया है तो 1-4-90 की वृद्धि की गई हो अर्थात् पहले कर्मचारियों को जो मिल रहा था उसमें अधिक ही 1-4-90 को देय हुआ इस तरह से आकलन करने का प्रयास करें तो जिस कर्मचारी को 12/- रुपये प्रतिदिन दिये जा रहे थे उसे निश्चित तौर से 1-4-90 को अधिक दिये जा रहे हैं जब कि प्रार्थी को 12/-

रुपये प्रतिदिन वेतन मानते हुए ही 1800/- रुपये का भुगतान किया गया है। इस तरह यह निष्कर्ष लेने में कोई हिचकिचाहट नहीं हो सकती कि प्रार्थी को पूरी राशि नहीं दी गई। अतः यह प्रमाणित होता है कि प्रार्थी को 25-एफ के अन्तर्गत पूरी राशि का भुगतान नहीं किया गया।

अब प्रार्थी को देय अनुतोष के लिए विचार किया गया है। विपक्षी की ओर से इस पर बल दिया गया है कि सम्माननीय उच्च न्यायालय ने धारा 25-एफ के प्रावधानों की पालना करते हुए, सेवाएं समाप्त करने की स्वतंत्रता दी है। विपक्षी की ओर से यह तर्क दिया गया है कि उन्हें प्रार्थी की सेवाओं की आवश्यकता नहीं है।

प्रार्थी की सेवा समाप्ति धारा 25-एफ के प्रावधानों की पूर्ण पालना नहीं करने से शून्य व निष्प्रभावी है। धारा 25 एफ के उल्लंघन के मामले में साधारणतया सेवाभय पुनर्स्थापन के लिए सहानुभूति से विचार किया जाना चाहिये। परन्तु 25-एफ के उल्लंघन के प्रत्येक मामले में यह आवश्यक नहीं कि सेवा में पुनर्स्थापित ही किया जावे। विपक्षी एक राष्ट्रीयकृत बैंक होकर भारत सरकार का एक उपक्रम है तथा इस उपक्रम में नियोजन को राज्य के अन्तर्गत नियोजन माना जा सकता है। राज्य के अन्तर्गत इस तरह दैनिक वेतननिक आकस्मिक कर्मचारियों के लिए सम्माननीय उच्चतम न्यायालय ने ए.आई.आर. 1992-उच्चतम न्यायालय-789" देहली डेवलपमेंट होर्टिकल्चर एम्प्लॉयज यूनियन बनाम देहली एडमिनिस्ट्रेशन में निम्न मत अभिव्यक्त किया है:-

"Apart from the fact that the petitioners cannot be directed to be regularised for the reasons given above, we may take more of the pernicious consequence to which the direction for regularisation of workmen on the only ground that they have put in work for 240 days or more days, has been leading. Although there is Employment Exchange Act which required recruitment on the basis of registration in the Employment Exchange, it has become a common practice to ignore the Employment Exchange and the persons registered in the Employment Exchanges, and to employ and get employed directly those who are either not registered with the Employment Exchange or who though registered are lower in the long waiting list in the Employment Register. The courts can take judicial notice of the fact that such employment is sought and given directly for various illegal considerations including money. The employment is given first for temporary periods with technical breaks to circumvent the relevant rules, and is continued for 240 or more days with a view to give the benefit of regularisation knowing the judicial trend that those who have completed 240 or more days are directed to be automatically regularised. A good deal of illegal employment market has developed resulting in a new source of corruption and frustration of those who are waiting at the Employment Exchanges for years. Not all those who gain such back-door entry in the employment are in need of the particular jobs. Though already employed elsewhere, they join the jobs for better and secured prospects. That is why most of the cases which come to the courts are of employment in Government Departments, Public Undertaking or Agencies. Ultimately it is the people who bear the heavy burden of the surplus labour. The other equally injurious effect of indiscriminate regularisation has been that many of the agencies have stopped undertaking casual or temporary works though they are urgent and essential for fear that is

those who are employed on such works are required to be continued for 240 or more days have to be absorbed as regular employees although the works are time bound and there is no need for the workmen beyond the completion of the works undertaken. The public interests are thus jeopardised of both counts."

प्रार्थी एक दैनिक वैननिक कर्मचारी था तथा पुनर्स्थापन करने पर उसी रूप में पुनर्स्थापित होगा तथा इसकी सम्भावना से इन्कार नहीं किया जा सकता कि उक्त परिस्थितियों में उपरोक्त तरह की विषमताएं, जटिलताएं व कठिनाईयां उत्पन्न हो सकती हैं। धारा 25-एफ के उल्लंघन के प्रत्येक मामले में आवश्यक नहीं कि पुनर्स्थापन ही किया जाये। उपयुक्त तथ्यों व आधारों व कारणों पर पुनर्स्थापन से भिन्न अनुतोष प्रदान की जा सकती है। सम्माननीय उच्चतम न्यायालय ने कुछ मामलों में इस तरह का मत अभिव्यक्त किया है जिसमें से कुछ इस प्रकार है:—

- (1) 1995 एम.सी.सी. (एल. एण्ड. एस.) 529-मुरजीत घोष बनाम यु. को. बैंक
- (2) 1995 एम.सी.सी. (एल. एण्ड. एस.) 142-गेलस्टन जोहान बनाम मेन्टल इण्डस्ट्रियल ट्रिब्यूनल
- (3) एल.एल.जे. 1996(1) 637- रजवंतसिंह रेवत बनाम दी डिस्ट्रीक्ट फूड एण्ड सप्लाइज कंट्रोलर फिरोजपुर व अन्य
- (4) एल.एल.जे. 1996(1) -644-गिदड़वा कोपरेटिव मार्केटिंग कम प्रोसेसिंग सोसाईटी लि. बनाम प्रेसा-ईडींग ओफिसर लेबर कोर्ट
- (5) 1995 एम. सी. सी. (एल. एण्ड एस.) 141 गुजरात स्टेट रोड

ट्रांसपोर्ट कारपोरेशन व अन्य बनाम मूलश्रामरा

- (6) 1995 एम. सी. सी. (एल. एण्ड एस.) 573-सैयद अजम हुसैनी बनाम आन्ध्रा बैंक

प्रार्थी ने अपने शपथ पत्र में कही पर यह नहीं बताया है कि वह बेरोजगार है। वास्तव में इस बारे में किसी भी पक्ष द्वारा कोई तथ्य या जानकारी प्रस्तुत नहीं की गई है। तमाम परिस्थितियां सामान्य रहने यह निश्चिन कहा जा सकता है प्रार्थी ने उसका नियोजन समाप्त करने के बाद से इतने वर्षों में निश्चित तौर से अन्य कार्य करके उस कार्य में योग्यता व अनुभव तथा आय अर्जन की है पुनर्स्थापित किये जाने पर इसकी प्रत्येक संभावना है कि इतने वर्षों में प्राप्त की गई योग्यता व अनुभव का शायद विशेष उपयोग नहीं रहे तथा फिर भी प्रार्थी दैनिक वैननिक कर्मचारी ही रहेगा तथा इसकी संभावना से इन्कार नहीं किया जा सकता कि लम्बे समय तक इसी स्थिति में बना रहे अतः न्यायालय की राय में तमाम परिस्थितियों को देखते हुए प्रार्थी को पुनर्स्थापित करने के बजाए एक सूत्र क्षतिपूर्ति की राशि प्रदान किया जाना अधिक उपयुक्त है ऐसा किया जाना शायद तुलनात्मक तौर से दोनों पक्षों के हित में भी है। अतः धारा 25-एफ

के प्रावधानों की पूर्ण पालना किये बिना प्रार्थी की सेवा समाप्त किये जाने के परिणामस्वरूप प्रार्थी कर्मचारी को उससे नियोजक से एकमुश्कृत क्षतिपूर्ति की राशि दिलाया जाना अधिक उपर्युक्त प्रतीत होता है।

एक मुश्कृत राशि निर्धारण में कई तथ्य सहायक हो सकते हैं जैसे नियोजन की प्रकृति, नियोजन की अवधि, दिया जा रहा पारिश्रमिक, यदि 25-गफ के प्रावधानों की पूर्ण पालना की जाती तो तत्समय देय राशि, वर्तमान में देय राशि, उस कार्य के लिए वर्तमान में देय राशि—यदि पुनर्स्थापित किया जावे तो देय पूर्व भूति की राशि इत्यादि। तमाम परिस्थितियों को देखते हुए यदि प्रार्थी को पुनर्स्थापित किया जाना तो दिनांक रैफरेंस अप्रैल, 1997 से अब तक यानि पौने दो वर्ष की अवधि के लिए प्रार्थी को देय वेतन का लगभग पचास प्रतिशत पूर्व भूति के रूप में देय होगा। राशि निर्धारण किये जाने हेतु राज्य सरकार द्वारा पूर्ण कालिक दैनिक कर्मचारियों के लिए निर्धारित न्यूनतम वेतन ला आधार बना लिया जाना चाहिये जो कि 1-1-95 से 1-5-98 तक 32/- रुपये प्रतिदिन था। अतः प्रार्थी की अब सेवा समाप्त की जाती है तो अप्रैल 1996 से अब तक साढ़े बारह-तेरह वर्ष की सेवा के आधार पर साढ़े छः माह का वेतन की क्षतिपूर्ति व एक माह का नॉटिस वेतन कुल साढ़े सात माह का वेतन देय होता जिसकी गणना विपक्षी नियोजक के परिपत्र के अनुसार 41 रुपये प्रतिदिन की दर से की जानी चाहिये। साढ़े सात माह के 225 कार्य-दिवस मानते हुए 41 रुपये प्रतिदिन के हिसाब से 9200/- रुपये होते हैं अतः 32/- रुपये प्रतिदिन की दर से पूर्व भूति की राशि की गणना की जावे तो अप्रैल 1997 से अब तक लगभग बारह-तेरह हजार रुपये से अधिक नहीं होती। इस तरह प्रार्थी की क्षतिपूर्ति के 35,000/- रुपये दिलाये जाने उचित हो सकते हैं तथा यह उल्लेखनीय है कि 1800 रुपये का भुगतान वर्ष 1994 में ही प्रार्थी को हो चुका है। न्यायालय की 194 में उपरोक्त गणना के स्थान पर प्रार्थी को 41 रुपये प्रति दिन की दर से सेवा समाप्ति की तिथि 21-3-1994 से अब तक बचने वाले वेतन की राशि क्षतिपूर्ति के रूप में दिलाई जानी चाहिये जो राशि मार्च 94 से अब तक 1450 कार्य दिवस मानते हुए 61,000/- रुपये होती है जिसमें से 1800/- रुपये भुगतान का सन् 1994 में हो चुका है अतः तमाम परिस्थितियों को देखते हुए प्रार्थी को कुल 57,000/- (सत्तावन हजार रुपये) बतौर क्षतिपूर्ति दिलाया जाना न्यायोचित प्रतीत होता है जो राशि लगभग वर्तमान वरों से पौने पांच वर्ष के वेतन के बराबर की राशि है। तदनुसार यह विवाद अधिनिर्णित किये जाने योग्य है।

अधिनिर्णय

श्रम मंत्रालय भारत सरकार की विज्ञप्ति सं. एल. 12012/006/96 के अन्तर्गत प्रेषित विवाद इस तरह से अधिनिर्णित किया जाता है कि ब्रांच मैनेजर, यू.को. बैंक, फ्लोदी (जोधपुर) द्वारा प्रार्थी श्री नरेन्द्रगिरी पुत्र गुलाबगिरी की सेवाएं 21-3-1994 से समाप्त किया जाना अनुचित एवं अवैधानिक है। परन्तु प्रकरण के तमाम तथ्यों एवं परिस्थितियों

को देखते हुए प्रार्थी को सेवा में पुनर्स्थापित किये जाने के बजाए एक मुश्कृत 57,000/- रुपये (सत्तावन हजार रुपये) बतौर क्षतिपूर्ति अप्रार्थी नियोजक से प्राप्त करने का अधिकारी घोषित किया जाता है। अप्रार्थी नियोजक द्वारा उक्त 57,000/- (सत्तावन हजार रुपये) की राशि प्रार्थी को अदा कर दिये जाने पर अप्रार्थी के प्रार्थी के प्रति बतौर श्रमिक सारे दायित्व समाप्त हो जायेगे। इसके अतिरिक्त प्रार्थी अन्य कोई अनुतोष अप्रार्थी नियोजक से प्राप्त करने का अधिकारी नहीं है। इस अधिनिर्णय को प्रकाशनार्थ श्रम मंत्रालय भारत सरकार, नई दिल्ली को प्रेषित किया जावे।

यह अधिनिर्णय आज दिनांक 06-1-1999 को न्यायालय में हस्ताक्षर कर सुनाया गया।

चांदमल तोतला, न्यायाधीश

नई दिल्ली, 24 फरवरी, 1999

का. आ. 808.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यको बैंक के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जोधपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-2-99 को प्राप्त हुआ था।

[सं. एल-12012/39/96—आई. आर. (बी.-II)]
सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 24th February, 1999

S.O. 808.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jodhpur as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 23-2-99.

[No. L-12012/39/96-IR(B-II)]

C. GANGADHARAN, Desk Officer

अनुबंध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय
जोधपुर

पीठासीन अधिकारी :—श्री चांदमल तोतला, आर. एच. जे. एम.

औद्योगिक विवाद (केन्द्रीय) सं. :—7/1997
श्री राजेन्द्र भंडारी, राजस्थान (स्टेट) बैंक वर्क्स, आर्गो-
नाईजेशन छटी सी रोड़, शास्त्रीनगर, पावटा बी रोड़,
जोधपुर।

... प्रार्थी

बनाम

मंडल प्रबन्धक, यूको बैंक, मंडल कार्यालय, जी 77,
शास्त्रीनगर, जोधपुर।

... अप्रार्थी

उपस्थित:—

- (1) प्रार्थी की ओर से श्री ललित शर्मा प्रतिनिधी
- (2) अप्रार्थी की ओर से श्री ओ. पी. माथुर प्रतिनिधी

अधिनियंत्रण

दिनांक : 06-1-1999

श्रम मंत्रालय भारत सरकार की विज्ञप्ति संख्या 12012/39/96 दिनांक 3-5-97 से श्रमिक कर्मचारी तथा उसके नियोजक के मध्य उत्पन्न हुआ निम्नांकित औद्योगिक विवाद अधिनियंत्रण हेतु इस औद्योगिक न्यायाधिकरण को प्रेषित किया गया तथा 21-5-1997 को नियमित औद्योगिक विवाद संख्या 7/97 पंजीबद्ध हुआ :—

“Whether the action of the management of UCO Bank Jodhpur/Jaipur in transferring Shri Rajendra Bhandari Clerk/Cashier from Jodhpur City to Boranada Village is legal and justified? If not what relief the said workman is entitled to?”

उपरोक्तानुसार विवाद कर्मचारी श्री राजेन्द्र भण्डारी की जोधपुर नगर से स्थानान्तरण की वैधानिकता व औचित्यता के बारे में है तथा संबंधित कर्मचारी ने राजस्थान स्टेट बैंक वर्क्स ओर्गेनाइजेशन श्रम संगठन के माध्यम से प्रस्तुत मांग-पत्र में प्रकट किया है कि यह संगठन राजस्थान राज्य के विभिन्न बैंकों के संगठनों का प्रान्तीय संगठन है तथा श्री राजेन्द्र भण्डारी इस ओर्गेनाइजेशन के उप-महामंत्री तथा यूको बैंक वर्क्स ओर्गेनाइजेशन के अखिल भारतीय उपमहामंत्री थे। आवेदन के अनुसार श्री राजेन्द्र भण्डारी कर्मचारी विपक्षी बैंक की सरदारपुरा शाखा जोधपुर में नियोजित थे तब उसे 11-4-94 को निलम्बित किया गया जिस व अन्य मामले से संबंधित विवाद क्षेत्रीय श्रम आयुक्त केन्द्रीय अजमेर के समक्ष उठाया गया जिसमें 7-10-1994 को श्री क्षेत्रीय श्रम आयुक्त अजमेर के समक्ष सहमती हुई कि कर्मचारी का निलम्बन आदेश वापस लेकर उन्हें जोधपुर की किसी शाखा में स्थापित किया जाएगा तथा बैंक ने 11-11-94 का कर्मचारी का निलम्बन आदेश तो वापस ले लिया परन्तु उसे जोधपुर पदस्थापित करने के बजाय बैंक की बोरानाडा शाखा में स्थापित किया गया। बताया गया कि बोरानाडा शाखा में पद स्थापित किया जाना अनुचित एवं अवैधानिक है क्योंकि (1) 7-10-1994 को हुई सहमति एवं समझौते के विपरित स्थानान्तरण किया गया है (2) कर्मचारी श्रम संगठन का क्षेत्रीय उपमहामंत्री था तथा कर्मचारियों पर लाग् एवार्ड के प्रावधानों का उल्लंघन करते हुए यह स्थानान्तरण किया गया। शास्ती एवार्ड के अनुसार यूनियन पदाधिकारी स्थानान्तरित नहीं किये जा सकते तथा अगर आवश्यक है तो पांच दिन पूर्व नोटिस दिया जाना आवश्यक है (3) कर्मचारी की पत्नी भी जोधपुर नगर सोजनीगेट शाखा पर कार्यरत है तथा परम्परा अनुसार पति पत्नी को एक ही स्थान पर पदस्थापित रखा जाना चाहिए, तथा ऐसी कोई स्थिति नहीं थी कि प्रार्थी को जोधपुर में पदस्थापित नहीं किया जा सकता

(4) वास्तव में स्थानान्तरण ट्रेड यूनियन गतिविधियों के कारण प्रार्थी को दण्डित किये जाने के उद्देश्य से किया गया है (5) कर्मचारी के विरुद्ध 5-4-1994 को एक प्रथम सूचना भी बैंक द्वारा दर्ज कराई गई तथा पुलिस द्वारा अन्तिम प्रतिवेदन भी दे दिया गया फिर भी बैंक अधिकाधिकारियों ने झूठे आरोप लगाते हुए इस्तगाला प्रस्तुत किया। आवेदन में यह भी बताया गया है कि विपक्षी बैंक की स्थानान्तरण नीति के कारण अधिकतम ठहराव के कारण श्री भण्डारी व एक अन्य श्री राजेन्द्र वालड़ का दूसरी शाखा से स्थानान्तरण प्रस्तावित था तथा श्री राजेन्द्र का स्थानान्तरण जोधपुर में ही दूसरी शाखा मण्डोर में किया गया जिस स्थानान्तरण आदेश की भी आज दिन तक पालना नहीं कराई गई है तथा प्रार्थी को बोरानाडा स्थानान्तरित किया गया जबकि उनकी पत्नी जोधपुर में ही पदस्थापित है अतः उन्हें दो स्थानों का व्यय वहन करना पड़ना है तथा जोधपुर में मिलने वाला मकान किराया भत्ता भी मिलना बन्द हो गया है—प्रार्थना की गई है कि प्रार्थी का बोरानाडा किया गया स्थानान्तरण अनुचित एवं अवैध घोषित किया जाकर जोधपुर की ही किसी अन्य शाखा में पदस्थापित किया जावे तथा इस अवधि में हुए मकान किराये व शहरी भत्ता क्षतिपूर्ति की राशि भी प्रदान की जावे।

विपक्षी के उत्तर के अनुसार संबंधित कर्मचारी श्री राजेन्द्र भण्डारी ने स्वयं को श्रम संगठन का उप-मंत्री व उप-महामंत्री बताते हुए संगठन के बैनर का उपयोग किया है तथा प्रार्थी को ऐसा करने का कोई अधिकार नहीं है तथा वह स्वयं के नाम से ही यह विवाद उठा सकता है। उत्तर में बताया गया है कि प्रार्थी राजेन्द्र भण्डारी बैंक की सरदारपुरा जोधपुर में नियुक्त था जब सक्षम अधिकारी द्वारा दिनांक 11-4-1994 को निलम्बित किया गया जिसके विरुद्ध कर्मचारी द्वारा क्षेत्रीय श्रम आयुक्त (केन्द्रीय) अजमेर के समक्ष विवाद उठाया गया जो विवाद खारिज हुआ तथा ऐसी कोई सहमति नहीं हुई कि निलम्बन आदेश वापस लेकर जोधपुर के किसी शाखा में लगाया जावे। बताया गया कि यह तथ्य हुआ था कि निलम्बन वापस लेने का मामला मुख्यालय को रेफर किया जावे और उसे जोधपुर की किसी अन्य आंच में पोस्टिंग दी जावे तथा जोधपुर शहर की शाखा में पदस्थापन का समझौता नहीं हुआ था। उत्तर में बताया गया है कि सहमति के अनुसार मुख्यालय को सिफारिश की गई जहां से निलम्बन आदेश वापस लेकर प्रार्थी को बोरानाडा शाखा में नियुक्त किया गया जिसका विधि अधिकार क्षेत्रीय प्रबन्धक को है तथा यह स्थानान्तरण किसी भी तरह से अनुचित एवं अवैध नहीं है। यह भी बताया गया कि बोरानाडा जोधपुर शहर से लगता हुआ ही है तथा स्थानान्तरण पूरी तरह से परिस्थितियों की आवश्यकता अनुसार किया गया है जो कि पूरी तरह से विधि अनुसार एवं उचित है, स्थानान्तरण को चुनौती देने का किसी को कोई अधिकार नहीं है। उत्तर में यह भी बताया गया कि प्रार्थी के विरुद्ध विभागीय जांच चल रही थी तथा जांच को कर्मचारी द्वारा प्रभावित

करने की अनुमति नहीं दी जा सकती—स्थानान्तरण में किसी तरह की दुर्भावना होने से इन्कार करते हुए बताया गया कि स्थानान्तरण से पूर्व नोटिस दिया जाना या यूनियन को सुना जाना आवश्यक नहीं है व एवार्ड के प्रावधानों का उल्लंघन भी नहीं किया गया। उत्तर में यह भी बताया गया कि पति पत्नी को एक ही स्थान पर रखा जाना अनिवार्य नहीं है यद्यपि एक स्थान पर नियुक्ति देने की सुविधा का प्रयास किया जाता है तथा प्रार्थी को ऐसा कोई कानूनी अधिकार नहीं है कि वह जोधपुर में ही किसी शाखा में पदस्थापित हो तथा उसे जोधपुर शहर के एकदम निकट ही पदस्थापित किया गया हो। यह भी बताया गया कि कर्मचारी के विरुद्ध 5-4-1994 को शाखा प्रबन्धक ने प्रथम सूचना रिपोर्ट दर्ज कराई थी जिसमें गलत तौर से अन्तिम प्रतिवेदन दे दिया गया जिस पर इस्तगसा प्रस्तुत करना पड़ा जोकि विधिक अधिकारों के अनुसार है तथा उस इस्तगसे पर न्यायालय द्वारा प्रार्थी व अन्य के विरुद्ध अपराध का प्रसंज्ञान लिया गया तथा संबंधित शाण्डिक प्रकरण न्यायिक मजिस्ट्रेट संख्या-4, जोधपुर में चल रहा है व प्रसंज्ञान आदेश के विरुद्ध कर्मचारी द्वारा निगरानी की गई जो भी अपील न्यायालय द्वारा अस्वीकार की गई। यह भी बताया गया कि बोरानाडा, जोधपुर नगर से 15 किमी. ही दूर है तथा प्रार्थी का स्थानान्तरण वहां किया जाना जन-हित व बैंक के हित में आवश्यक था तथा स्थानान्तरण नीति के अन्तर्गत ही ऐसा किया गया व श्री भण्डारी की पत्नि जोधपुर में पदस्थापित होने से मकान किराया भत्ता व नगर भत्ता नियमानुसार प्राप्त कर रही है एवं यदि किसी कर्मचारी का स्थानान्तरण होता है तो नियमानुसार उसे भत्ता देय होता है अगर देय नहीं होता, वह भत्ता प्राप्ति के लिए स्थानान्तरण की मांग नहीं की जा सकती न ही स्थानान्तरण अवैध या अनुचित माना जा सकता है—मांग अस्वीकार किये जाने की प्रार्थना की गई।

विपक्षी के उत्तर का प्रार्थी की ओर से प्रतिउत्तर प्रस्तुत कर बताया गया कि जब एक बार कोई विवाद अधिनिर्णय हेतु न्यायालय को प्रेषित कर दिया जाता है तो वह विवाद औद्योगिक विवाद ही समझा जायेगा तथा विपक्षी ने श्रम आयुक्त, अजमेर के समक्ष प्रार्थी का विवाद खारिज होना असत्य बताया है। यह भी बताया है कि समझौते में जोधपुर नियुक्ति तय हुई थी तथा जोधपुर का अर्थ जोधपुर नगरीय सीमा से है व नगरीय सीमा से बाहर को जोधपुर सीमा में नहीं माना जा सकता। प्रार्थी का संघ का उप-महामंत्री होने तथा स्थानान्तरण शास्ती एवार्ड के प्रावधानों के विरुद्ध होना प्रकट करते हुए बताया गया कि बोरानाडा जोधपुर नगर से 20 एवं प्रार्थी के निवास स्थान से 25 कि. मी. दूर है, पति पत्नी को एक ही स्थान पर रखने के लिए भारत सरकार के अगस्त 1987 के निर्देशों का उल्लेख किया गया तथा बताया गया कि प्रार्थी को बोरानाडा नियुक्ति

करने से उसे मूल वेतन की आर्थिक क्षति हो रही है तथा प्रार्थी के विरुद्ध प्रथम सूचना गलत दर्ज कराई गई है जिस प्रथम सूचना के आधार पर ही प्रार्थी को आरोप-पत्र दिया गया।

साक्ष्य में प्रार्थी की ओर से स्वयं प्रार्थी श्री राजेन्द्र भण्डारी का शपथ-पत्र प्रस्तुत किया गया जिसमें आवेदन में अंकितानुसार बताया गया तथा विपक्षी की ओर से क्षेत्रीय प्रबन्धक श्री रामनाथ मिश्रा का शपथ-पत्र प्रस्तुत किया गया जिसमें उत्तर के अनुसार बताया गया। इन शपथ-पत्रों पर प्रतिपरीक्षण भी हुआ। प्रार्थी की ओर से पंजीकृत प्रथम सूचना पर हुई अन्तिम रिपोर्ट, सरपंच बोरानाडा का प्रमाण-पत्र, शास्ती एवार्ड के अंश तथा 1992-94 हेतु जिसमें संगठन के हुए चुनाव की कार्यवाहियों की प्रतिलिपियां इत्यादि प्रस्तुत की गई।

उभय पक्ष के प्रतिनिधीगण के तर्क सुने गये—प्रार्थी व विपक्षी द्वारा लिखित तर्क भी प्रस्तुत किये गये जिनका भी अवलोकन किया गया।

प्रस्तुत किये गये तथ्यों व तर्कों को देखते हुए यह प्रकट होता है कि प्रार्थी ने अपने स्थानान्तरण को निम्नांकित आधारों पर चुनौती दी है :—

- (1) क्षेत्रीय श्रम आयुक्त अजमेर के समक्ष हुई कथित सहमति/समझौता
- (2) प्रार्थी श्रम संगठन का पदाधिकारी है अतः नोटिस व सुनवाई बिना स्थानान्तरण नहीं किया जा सकता
- (3) प्रार्थी की पत्नी जोधपुर में ही नियुक्त है अतः प्रार्थी को भी यहीं रखा जाना चाहिये,
- (4) दुर्भावना व श्रम विरोधी कार्यवाही है,
- (5) कथित तौर से समक्ष अन्य कर्मचारियों को जोधपुर में ही रखा गया,

प्रार्थी के अनुसार वह राजस्थान स्टेट बैंक बकंस ओरेंटलजेशन का महामंत्री व अखिल भारतीय बैंक बकंस ओरेंटलजेशन का उपमहामंत्री था। यदि तर्क के तौर पर प्रार्थी को उपरोक्तानुसार श्रम संगठन का पदाधिकारी मान लिया जावे तो शास्ती एवार्ड के पैरा-535 (2), 3, 4 व 5 के अनुसार अपवादों को छोड़कर पदाधिकारियों का स्थानान्तरण प्रस्तावित करने पर इसका कम से कम पांच दिन का नोटिस बोर्ड पर नोटिस लगाया जायेगा तथा संगठन के द्वारा किये गये लिखित या मौखिक रिप्रेजेंटेशन पर विचार करके ही उसे स्वीकार/अस्वीकार करने का रिकार्ड रखते हुए आदेश दिया जायेगा जिसकी सूचना कर्मचारी व संगठन को दी जायेगी। प्रारम्भ में ही यह उल्लेख कर देना उचित है कि प्रत्येक मामले में उपरोक्त प्रक्रिया अपनाई जावे यह आवश्यक नहीं है। यह दोनों पक्षों के अनुसार सही है कि प्रार्थी निरन्तर चल रहा था तथा

क्षेत्रीय श्रम आयुक्त, अजमेर के माध्यम से कोई सहमति/समझौता हुआ था। जब सहमती या समझौता हुआ है तो अलग से कुछ दिन या पांच दिन पूर्व सूचना दिये जाने की कोई आवश्यकता ही नहीं थी। सहमति होने का अर्थ ही यह है कि सूचना दी गई—कोई एक्शन प्रस्तावित होना तथा उस एक्शन पर आपत्तियों को सुना गया। इस तरह यह नहीं कहा जा सकता कि एवार्ड का उल्लंघन किया गया। इसके अनतिरिक्त जब प्रार्थी निलम्बित था तो उसके पदस्थापन को केवल सामान्य स्थानान्तरण ही नहीं माना जा सकता न्यायालय में प्रथम सूचना से संबंधित कथित घटना का प्रकरण लम्बित होना बताया गया है जिसे प्रार्थी ने भी स्वीकार किया है। यहां पर यह उल्लेखनीय है कि प्रार्थी ने संगठन के चुनाव संबंधी जो दस्तावेज प्रस्तुत किये हैं उसका शीर्ष “प्रोटेक्टर वर्कमैन की सूची (1992—1994) है” तथा इस सूची में अंकित है कि 17-4-92 के निर्णय के अनुसार 18-10-92 से 1992—94 के लिए चुनाव सम्पन्न हुए। 1992—94 का अर्थ विशेष तौर से वित्तीय संस्थानों के लिए 31-3-94 से ही होना चाहिये—प्रार्थी का स्थानान्तरण नवम्बर, 1994 में किया गया यह निश्चित नहीं प्रतीत होता है कि उस समय प्रार्थी पदाधिकारी था। प्रार्थी को पदाधिकारी मानते हुए भी स्थिति उपरोक्तानुसार रह जाती है। अतः शास्ती एवार्ड के किसी-प्रबन्धान का उल्लंघन होना प्रमाणित नहीं होता।

घटना जिस पर कि प्रथम सूचना पंजीबद्ध कराई गई से संबंधित दाण्डिक प्रकरण सक्षम न्यायालय में चल रहा है, ऐसा प्रार्थी ने भी स्वीकार किया है। प्रथमतया तो घटना से संबंधित पूर्ण सामग्री रिकार्ड पर उपलब्ध नहीं है तथा उपलब्ध है तब भी इसपर किसी तरह से विचार करना प्रस्तुत प्रकरण में पूरी तरह अनुपयुक्त होगा तथा इसकी कोई आवश्यकता भी नहीं है।

एसिस्टेंट लेबर कमीशनर जयपुर कैम्प अजमेर के समक्ष हुई कार्यवाही के प्रतिवेदन की प्रतिलिपि प्रस्तुत की गई है जिसके अनुसार 7-10-1994 को समझौता वार्ता हुई। प्रतिवेदन दो टाईप पृष्ठों में है तथा अन्तिम पैरा के पहले तक उभय-पक्ष द्वारा बताई गई स्थिति अंकित की गई प्रतीत होती है। अन्तिम पैराग्राफ इस प्रकार है :—

“After some discussions with the parties in the matter, RLC(C) advised the management to examine the whole matter specially the order of suspension and the circular quoted in it i.e. circular No. CHO/PAS/19/89 dated 31-10-89 and before the matter once again to Head Office for taking immediate decision in the matter regarding revocation of suspension of Shri Bhandari. The RLC(C) further advised the management that since it is matter of suspension and the management has already initiated the Disciplinary action against Shri Bhandari, the order of suspension may be revoked and he may be posted to some another branch of Jodhpur, if the management feels so and further proceed with the Disciplinary proceedings to maintain the harmonious relationship between the Employer and Employees.”

इस तरह से यह प्रतीत होता है कि पक्षकारों के मध्य कोई निश्चित समझौता नहीं हुआ था संबंधित विद्वान लेबर कमीशनर द्वारा प्रबंधन को राय दी गई थी कि वह सर्कुलर के अनुसार मामले पर निर्णय के लिए मुख्यालय को मामला प्रेषित करे। यह राय दी गई है कि यदि प्रबंधन ठीक समझे तो निलम्बन वापस लेकर के उन्हें जोधपुर के ही किसी ब्रांच में स्थापन कर दे। ऐसी केवल “एडवाइज” दी गई है तथा इसी तरह से मामला उच्चाधिकारियों को प्रेषित करने की राय दी गई है। इस प्रतिवेदन को देखने पर किसी तरह से यह निष्कर्ष नहीं लिया जा सकता कि प्रबंधन ने निलम्बन आदेश वापस लेने या प्रार्थी को जोधपुर में नियुक्त करने के लिए सहमति दी थी। ऐसा करने की केवल राय दी गई थी तथा राय को बाध्यात्मक आदेश के रूप में नहीं लिया जा सकता। अतः प्रार्थी का यह तर्क भी मानने योग्य नहीं रह जाता कि स्थानान्तरण सहमति/समझौता या आदेश के विपरीत किया गया।

प्रार्थी के विरुद्ध प्रथम सूचना रिपोर्ट बैंक के अधिकारी द्वारा पंजीबद्ध कराई गई जिसपर सक्षम न्यायालय में कार्यवाही भी चल रही है। अतः यह नहीं कहा जा सकता कि तमाम परिस्थितियाँ सामान्य रहते हुए स्थानान्तरण किया गया, किसी स्थान पर नियुक्त बने रहने का सार्वजनिक उपक्रम के किसी कर्मचारी को अधिकार नहीं है स्वयं प्रार्थी ने अपने शपथपत्र के पैरा 5 में बताया है कि “विपक्षी बैंक की स्थानान्तरण नीति के अनुसार अधिकतम ठहराव के कारण प्रार्थी तथा एक अन्य श्रमिक श्री राजेन्द्र बालड़ का एक शाखा से दूसरी शाखा में स्थानान्तरण प्रस्तावित था” प्रार्थी के शपथ-पत्र में अंकित इस कथन से यह स्पष्ट हो जाता है कि अधिकतम ठहराव के कारण ही प्रार्थी का स्थानान्तरण किया जाना प्रस्तावित था। प्रार्थी ने अपने लिखित तर्कों के साथ में बैंक का 27-6-94 का पत्र भी प्रस्तुत किया गया जिसके अनुसार प्रार्थी व श्री राजेन्द्र का स्थानान्तरण उनके लम्बे समय से वहां नियुक्ति के कारण प्रस्तावित था तथा प्रार्थी ने भी माना है कि वह इस शाखा में जोधपुर में नौ वर्ष तक पद स्थापित रहा था। इस तरह यह पूरी तरह से प्रमाणित है कि प्रार्थी का अधिकतम ठहराव के कारण स्थानान्तरण किया जाना प्रस्तावित था तथा उपरोक्त पद को प्रार्थी को जोधपुर में ही उसकी इच्छा की शाखा बदलने के लिए कहा गया।

प्रार्थी का स्थानान्तरण बोरानाडा हुआ था विपक्षी के अनुसार वह स्थान जोधपुर से 15 कि.मी. दूर है जबकि प्रार्थी के अनुसार 20 कि.मी. तथा प्रार्थी के निवास स्थान से 25 कि.मी.। प्रार्थी ने सरपंच बोरानाडा का प्रमाण-पत्र प्रस्तुत किया जिसके अनुसार बोरानाडा जोधपुर से 15 कि.मी. है इस तरह प्रमाणित है कि यह स्थान जहां कि प्रार्थी को पदस्थापित किया गया था जोधपुर से 15 कि.मी. दूरी पर है तथा जोधपुर नगर का भाग नहीं है परन्तु साथ ही यह है कि 15 कि.मी. की दूरी लगभग नगण्य है जोधपुर जैसे नगर के लिए तो यह दूरी और भी अधिक नगण्य हो जाती

है। प्रार्थी नौ वर्ष से वहां नियुक्त था—परिस्थितियां सामान्य नहीं थी तथा अधिकतम ठहराव के कारण भी स्थानांतरण किया जाना प्रस्तावित था।

विपक्षी की ओर से तर्क दिया गया कि किसी स्थान पर नियुक्ति के लिए कोई अधिकार किसी कर्मचारी को नहीं होता तथा यह नियोजन का विवेकाधिकार होता है। इस संबंध में ए. आई. आर. 1995 उच्चतम न्यायालय 813-वीफ जंतरल मैनेजर टेलीकाम बनाम राजेन्द्र भट्टाचर्जी व अन्य (2) डब्ल्यू. एल. आर. 1993 (राज.) 682-किशन सिंह बनाम स्टेट आफ राज. (3) ए. आई. आर. 1993 सुप्रिम कोर्ट-1236-राजेन्द्र राँच बनाम यूनियन आफ इंडिया (4) डब्ल्यू. एल. आर. 1994 (राज.) 22 ब्रिजेन्द्र सिंह बनाम स्टेट (5) ए. आई. आर. 1991 उच्चतम न्यायालय-532 मिस. मिल्पी बोम व अन्य बनाम स्टेट आफ बिहार व अन्य (6) डब्ल्यू. एल. आर. 1993 (राज.) 405 नरेन्द्र कुमार बनाम स्टेट ऑफ राजस्थान प्रस्तुत की गई जिनका आदरपूर्वक अवलोकन किया गया। इसी तरह पति पत्नी के एक स्थान पर नियुक्ति का कोई अधिकार नहीं होता बनाते हुए ए. आई. आर. 1992-उच्चतम न्यायालय-519-बैंक आफ इंडिया बनाम जगजीतसिंह मेहता प्रस्तुत की गई जिसका भी आदरपूर्वक अवलोकन कर प्रस्तुत प्रकरण के तथ्यों के संदर्भ में विचार किया गया। यह निश्चय नौ से कहा जा सकता है कि सामान्यतया किसी स्थान या पद विशेष पर नियुक्ति का कोई अधिकार नहीं होता तथा प्रशासनिक आवश्यकतों के अनुसार सद्भावना से किये गये स्थानांतरण को चुनौती नहीं दी जा सकती। पति पत्नी के एक स्थान पर नियुक्ति अधिकार के तौर पर नहीं मानी जा सकती इस मामले में प्रार्थी नौ साल से वहां नियुक्त था तथा अन्य जो परिस्थितियां हुईं उसका उल्लेख हो चुका है।

प्रार्थी की ओर से तर्क दिया गया कि उसे बाहर नियुक्ति से उसके मूल वेतन के साठे पांच प्रतिशत क्षति मकान किराया भत्ता व शहरी भत्ते के रूप में हो रही है इस तर्क का किसी तरह का कोई महत्व नहीं है अतः इस तरह के तर्कों के तौर पर अनुतोष प्रदान की जा सके तो उस परिस्थिति में तो नगरों के बाहर नियुक्ति या पद स्थापित प्रत्येक कर्मचारी अधिकार के तौर पर नगरों में या विशेष भत्ता प्राप्त होने के स्थान पर नियुक्ति या पद स्थापन की मांग करेगा जो शायद किसी तरह से संभव नहीं है। प्रार्थी को कथित तौर से साठे पांच प्रतिशत का नुकसान हो रहा है इस आधार पर किसी अन्य को उतना ही नुकसान करने हुए प्रार्थी को वह लाभ नहीं दिया जा सकता। विशेष तौर से जब उसकी पत्नी यही मकान किराया व शहरी क्षतिपूर्ति भत्ता प्राप्त कर रही है।

इस तरह प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है। तर्कों के दौरान विपक्षी की तरफ से बताया गया कि इस कार्यवाही में नियोजक का काफी व्यय हुआ है व साधन लगे हैं, इस संबंध में केवल यह उल्लेख कर देना उचित है कि प्रार्थी विपक्षी का श्रमिक कर्मचारी है अतः उनके मध्य सद्भावना की अपेक्षा करने हुए कार्यवाही व्यय दिलाया जाना

उचित नहीं समझा जाता। तदनुसार यह विवाद अधिनिर्णित किये जाने योग्य है।

अधिनिर्णय

श्रम मंत्रालय भारत सरकार की विज्ञप्ति सं. एफ-12012/39/96 के अन्तर्गत प्रेषित विवाद इस तरह से अधिनिर्णित किया जाता है कि प्रबंधन यू. को. बैंक जोधपुर/जयपुर का श्री राजेन्द्र भंडारी क्लर्क/कैसीयर को जोधपुर से डोरानाड़ा स्थानांतरण करना अनुचित एवं अवैधानिक नहीं है अतः प्रार्थी कोई राहत प्राप्त करने का अधिकारी नहीं है। इस अधिनिर्णय को प्रकाशनार्थ श्रम मंत्रालय भारत सरकार नई दिल्ली को प्रेषित किया जाये।

यह अधिनिर्णय आज दिनांक 06-1-1999 को न्यायालय में हस्ताक्षर कर सुनाया गया।

चांदमल तोतला, न्यायाधीश

नई दिल्ली, 25 फरवरी, 1999

का. आ. 809.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सेन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में श्रम न्यायालय चेन्नई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-2-99 को प्राप्त हुआ था।

[सं. एल-12012/437/95-आई.आर.बी-II]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 25th February, 1999

S.O. 809.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Chennai as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Central Bank of India and their workman, which was received by the Central Government on 23-2-99.

[No. L-12012/437/95-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. LABOUR COURT, CHENNAI

Present: Thiru S. Sardar Zackria Hussain, B.Sc., B.L., Presiding Officer

Wednesday the 21st Day of October, 1998

CENTRAL GOVT. INDUSTRIAL DISPUTE NO. 5 OF 1997

Thiru I. Manoharan,
Kuttabomman Street,
Lokanathapuram, Kollampalayam,
Erode.

—Petitioner

Vs.

1. The Regional Manager,
Central Bank of India,
Coimbatore.
 2. The Deputy General Manager,
Central Bank of India,
Zonal Office,
Chennai-600006.
- Respondents

AWARD

This is a petition filed under section 10 and sub-section 2-A of the Industrial Disputes Act, 1947 seeking for reinstatement of the petitioner in service with backwages, with resultant benefits and promotions if any.

2. The case of the petitioner as set out in the petition is as follows : The petitioner joined the respondent Bank in 1975. The petitioner was lastly drawing salary of Rs. 1090.80. Two registered letters were entrusted to the petitioner to be posted by the superior of Erode Branch at the time of closing of the banking hours on 22-2-86 for which the petitioner was given Rs. 23.30 for the expenses. When the petitioner was leaving the office he was informed that his wife was seriously ill, which was also known to the bank officials and so, the petitioner could not post the said two letters, since he had to be near the bed of his wife. The petitioner did not go to the bank for couple of days, since he had to attend on his wife and the two tapals given to the petitioner were collected from the house of the petitioner by one Angaiah, Sub-Accountant accompanied by bank staff Raja Rao. The petitioner also offered to return the amount of Rs. 23.30 to the bank. The petitioner was issued with memo dated 27-2-86 by the Erode Branch where the petitioner was working and the petitioner gave his explanation on 7-6-86. In his explanation, the petitioner has stated the reasons of his not attending to the work with effect from 24-2-86 to 26-2-86 and that he submitted leave application on 27-2-86 when he reported for duty and he also returned the amount of Rs. 23.30 towards the postal expenses on 27-2-86 when he returned for which Voucher dated 27-2-86 was issued to the petitioner. The petitioner was issued with a charge memo dated 5-7-86 about certain misconducts and after domestic enquiry the petitioner was terminated from service. The conciliation talks before the Asst. Labour Commissioner failed and the failure report was sent. The first charge was misuse of bank money has not been proved in the domestic enquiry. As regards the second charge that

the petitioner did not carry out the reasonable and lawful orders of the management it is stated that since the petitioner's wife was sick, the petitioner did not post the two tapals on 22-2-86. The third charge is that the petitioner kept the important tapals at his house, which was given to him for specific purpose. The management failed to prove in the enquiry that the tapals were handed over to the petitioner with clear instructions on 22-2-86 stating that those tapals were important ones. After the domestic enquiry the petitioner was terminated from service as per order dated 9-12-86. Though it is stated in the order that the misconducts have been condoned but the petitioner was discharged from service. In any event, the punishment is not proportionate to the charges levelled against the petitioner. Hence, it is prayed to reinstate the petitioner in service with backwages and other benefits.

3. The respondents have filed counter as follows : The petitioner when he was working at Srirangam branch of the respondent bank forged the signature of a HSS (Savings Bank) account holder and withdrawn amounts from that account. Punishment of stoppage of three increments with cumulative effect was awarded to the petitioner as the charge was proved in the departmental enquiry. The petitioner was given two closed covers addressed to (1) M/s. Suri and Company Madras and (2) Deputy Chief Officer (Operations) Regional Office, Coimbatore, during office hours on 22-2-86 with instructions to send the same by registered post and also entrusted an amount of Rs. 23.30 being the cost of postal charges and directed to hand over the postal receipts to the department. The petitioner left for the post office on 22-2-86 during office hours but did not return to the office till 27-2-86. On receiving information from the respondent's Regional Office, Coimbatore about the non-receipt of tapals addressed to them an officer's along with the clerk were deputed to the petitioner's house and they found that the tapals were lying in the house of the petitioner and they sent the tapals to the addresses under registered post. It is incorrect to say that the petitioner returned the amount of Rs. 23.30 as stated by him but in fact it was only recovered from his salary on 27-2-86. The charges levelled against the petitioner have been proved in the domestic enquiry, which was conducted in a proper manner. The petitioner was terminated from service since the charges against the petitioner were proved in the domestic enquiry. Hence, it is prayed to dismiss the petition.

4. The points for consideration are :

1. Whether the discharge of the petitioner from service is proper and justifiable ?

2. Whether the petitioner is entitled for reinstatement in service with backwages and resultant benefits.

3. To what relief the petitioner is entitled.

5. POINT NO. 1 : No oral evidence was let in on either side. Exs. W.1 to W.14 have been marked on the side of the petitioner. Exs.M.1 to M.30 have been marked on the side of the respondent bank by consent.

6. It is admitted that the petitioner was working as peon at the Erode branch of the Central Bank of India. He was entrusted with two covers for sending the same by registered post on 22-2-86 and that he was also given Rs. 23.30 towards expenses. It is also not in dispute that the petitioner Manoharan did not send the two covers by registered post on 22-2-86, which was a Saturday and on coming to know of the same by receiving a phone call from the Regional Office, Coimbatore on 24-2-86, the said two tapals were taken from the house of the petitioner by deputing the bank staff Angaiah and Raja Rao, which afterwards have been sent to the addressee. Further, it is also admitted that the petitioner did not return the amount of Rs. 23.30 received towards expenses for sending two covers by registered post on 22-2-86 and the said amount was recovered when he attended the office on 27-2-86 and out of his salary disbursed on that day. Therefore, on the charges levelled against the petitioner that he misused the bank money for personal use, that the petitioner failed to carry out the reasonable and lawful orders of the respondent bank, that the petitioner kept important tapals at his house without sending the same by registered post as instructed pursuant to which domestic enquiry was held and after considering the findings rendered by the enquiry officer that such charges have been proved, the petitioner was discharged from service, as per order dated 9-12-86.

7. The learned counsel for the petitioner has contended that the abovesaid charges levelled against the petitioner have not been proved in the domestic enquiry, that no evidence was let in on the side of the respondent bank, that the petitioner misused the bank money of Rs. 23.30, which was entrusted to the petitioner for the purpose of sending the two covers by registered post and since the petitioner's wife fell sick and was suffering from acute stomach pain on 22-2-86, the petitioner could not send the two covers entrusted to him, by registered post since he had to attend to his wife and as such, in the said circumstances beyond his control, the petitioner could not send the two tapals by registered post. Further it is also argued for the petitioner that since the petitioner was also fell sick suddenly he was unable

to report for duty on Monday 24-2-86 to Wednesday 26-2-86 for which he applied for leave when he reported for duty on 27-2-86, because of which the two tapals entrusted to him were kept in his house. In any event, the learned counsel for the petitioner has argued that the punishment of discharge of the petitioner from service is not proportionate to the charges levelled against the petitioner. The learned counsel for the petitioner has also relied on the decision Between Sankar Dass and Union of India and an other reported in 1985-11-LLJ-at page 184 in which case it is held as "Constitution of India—Art. 311(2)—Dismissal on the ground of conduct leading to conviction on criminal charge—Right of employee to be heard on the question of punishment—Application of mind before imposing penalty—The right to impose penalty implies duty to act justly and there is no right to be heard on penalty." It is further held in that case that "the punishment of dismissal imposed on the Govt. servant is whimsical and the same has to be set aside since the Govt. servant acted under force of adverse circumstances when he committed the offense of breach of trust."

8. The learned counsel for the respondent has argued that the charges levelled against the petitioner have been proved in the domestic enquiry, and since such finding of the enquiry officer have not been challenged, the correctness of the finding cannot be challenged in this petition. The learned counsel for the respondent further argued that the case of the petitioner that since his wife fell suddenly sick due to acute stomach pain, he had to attend on his wife because of which he could not send the two tapals entrusted to him by registered post is unbelievable, since there is no satisfactory evidence on that aspect on the side of the petitioner. The learned counsel for the respondent has also pointed out that the friend who informed the petitioner about the sickness of his wife when he was going to the post office, which is situated in between his house and the bank and about 200 metres away from the bank as well the friend through whom the petitioner informed about his illness on 24-2-86, having been not examined on the side of the petitioner in the domestic enquiry such a case set up by the petitioner is unbelievable. Further, according to the learned counsel for the respondent no reliance can be placed on the medical certificate Ex.W.14 dated 11-8-86 and which was issued on a later date, the petitioner's wife was sick on 22-2-86 and the petitioner had to attend on her. The learned counsel for the respondent has also contended that the two tapals entrusted to the petitioner for being sent by registered post on 22-2-86 were only recieved on 25-2-86 from the house of the petitioner and even during that time the petitioner failed to return the sum of Rs. 23.30

given to him towards expenses for sending the tapals by registered post and the said amount had to be recovered from him when the salary was disbursed to him on 27-2-86, when the petitioner returned for duty and as such, it is clear that the petitioner had misused and misappropriated the sum of Rs. 23.30 for his personal use and in view of such charges having been proved in the domestic enquiry, the discharge of the petitioner from service is very much justifiable and proper and so the said order does not call for any interference and section 25 F of the I.D. Act also is not attracted. The learned counsel for the respondent has also relied on the decision between State Bank of India and Workmen of State Bank of India reported in 1990-AIR-SC-at page 2034 in which case it is held as "industrial Disputes Act (1947), SS 2(oo), 25, Sch. 2, item 3, Sastri Award, Paras 521(5)(a) and (10) (c)-Bank employee—Discharge of, under para 521(10)(c)—It is punitive—Does not amount to retrenchment—Compliance with provisions of S(25)—Not necessary."

9. Ex.W.1. is the copy of the credit advice for the recovery of Rs. 23.30 from the petitioner dated 27-2-86. Ex.W.2 series are the three memos issued to the petitioner by the Central Bank dated 27-2-86, 1-4-86, 26-4-86. Ex.W.3 is the reply dated 7-6-86 given by the petitioner to the memo dated 27-2-86. Ex.W.4 dated 5-7-86 is the charge sheet issued by the respondent bank to the petitioner. Ex.W.5 is the copy of the domestic enquiry proceedings dated 28-7-86. Ex.W.6 is the copy of the written arguments filed by the respondent bank on 20-8-86 before the enquiry officer. Ex.W.7. is the written argument filed by the petitioner before the enquiry officer. Ex.W.8 dated 22-11-86 is the memo given by the respondent bank along with the enquiry findings and the show cause notice dated 18-11-86. Ex.W.9 is the reply dated 26-11-86 by the petitioner to the show cause memo dated 18-11-86 issued to the petitioner on 22-11-86. Ex.W.10 dated 8-12-86 is the final order of the disciplinary authority discharging the petitioner from service. Ex.W.11 dated 20-1-87 is the appeal filed by the petitioner. Ex.W.12 dated 15-5-87 is the order of the appellate authority dismissing the appeal. Ex.W.13 is the certified copy of the trunkcall register maintained by the respondent bank in respect of inward trunkcalls received by the respondent bank on 24-2-86 at 1 P.M. from the Regional Office, Coimbatore about the despatch of the audit report. Ex.W.14 dated 11-8-86 is the medical certificate issued to the petitioner's wife Jagadambal that she was suffering from severe stomach pain and so, the period of absence of the petitioner Manoharan from duty with effect from 22-2-86 to 26-2-86 was necessary for restoration of his wife's health.

10. Ex.M.1 dated 22-2-86 is the debit cash voucher. Ex.M.2 dated 25-2-86 are the two postal receipts together for a sum of Rs. 21.90. Ex.M.3 dated 27-2-86 is the debit cash voucher for Rs. 21.90. Ex. M.4 dated 25-2-86 is the debit cash voucher. Ex.M.5 dated 25-2-86 is the postal cover addressed to the Regional office. Ex.M.6 dated 27-2-86 is the bankers cheque for Rs. 588.66 for payment of salary to the petitioner. Ex.M.7 dated 27-2-86 is the credit cash voucher recovered for a sum of Rs. 23.30 from the petitioner. Ex.M.8 dated 27-2-86 is the memo issued to the petitioner by the respondent bank. Ex.M.9 is the memo dated 1-4-86 issued to the petitioner by the respondent bank. Ex.M.10 dated 26-4-86 is the memo of the respondent bank to the petitioner. Ex.M.11 dated 22-3-86 is the acknowledgement card signed by the petitioner. Ex. M.12 dated 7-6-86 is the explanation submitted by the petitioner for the memo dated 27-2-86. Ex.M.13 dated 27-2-86 is the leave application by the petitioner to the respondent bank. Ex.M.14 dated 27-2-86 is the muster roll copy from 24-2-86 to 1-3-86. Ex.M.15 dated 10-11-86 are the C.S.E. particulars of the petitioner. Ex.M.16 to M.19, M.21 to M.28 are the letters by the respondent bank, salary attachment of the petitioner, memo to the petitioner by the respondent bank, disciplinary authority form H of the respondent bank and the memos issued to the petitioner by the respondent bank as well the letter written by the petitioner to the respondent bank relating to the period from 7-2-84 to 23-11-85. Ex.M.20 dated 24-2-86 is the inward trunkcall register relating to the call received on 24-2-86 from the regional office, Coimbatore about the audit report. Ex.M.30 is the enquiry proceedings and Ex. M.29 dated 5-7-86 is the findings of the enquiry officer.

11. Admittedly, the petitioner who was employed as a peon in the respondent bank failed to send the two covers by registered post entrusted to him on Saturday 22-2-86 for which purpose he was also given a sum of Rs. 23.30 towards expenses. According to the petitioner since his wife fell sick due to acute stomach pain, he had to attend his wife and so, he could not send the two covers by registered post entrusted to him on 22-2-86 and that he also could not return the sum of Rs. 23.30 given to him towards expenses. Though it appears that the two tapals were handed over by the petitioner to the bank staff Augaiah and Raja Rao on 25-2-86, the petitioner did not return the sum of Rs. 23.30 to them and the said amount had to be recovered when his salary was paid on 27-2-86. According to the petitioner the said amount was not recovered from his salary but he paid the same, when he returned for duty on 27-2-86 since he reported for duty on 27-2-86 after leave for the days 24-2-86 to

26-2-86, the application was also given to the respondent bank on 27-2-86, in view of the fact that he also fell sick. Therefore, according to the petitioner due to circumstances beyond his control, he could not send the two covers entrusted to him by registered post on 22-2-86 and that he also could not return the sum of Rs. 23.30 to the respondent bank, which was given to him towards postal expenses. Though it is stated for the respondent bank that both the said two letters are very important tapals, it appears that the petitioner could not send both the two letters contained in the covers by registered post, as stated above, that his wife fell sick suddenly on 22-2-86 and that the petitioner also fell sick from 24-2-86 to 26-2-86. Such reason given by the petitioner appears to be incorrect in that in his leave application Ex. M.13 dated 27-2-86, reason for his leave is given as personal work. If really the petitioner fell sick from 24-2-86 to 26-2-86, he could have clearly mentioned in the said leave application that the reason for leave is that he fell sick.

No credence can be attached to the medical certificate Ex.W.14 dated 11-8-86 stating that the petitioner Manoharan's wife Jagadambal fell sick due to severe stomach pain from 22-2-86 to 27-2-86 in that it was obtained very much belatedly. It is not known as to how such medical certificate was issued. There is nothing to show that the petitioner Manoharan's wife was hospitalised and was treated as inpatient in any nursing home during the period 22-2-86 to 27-2-86 for severe stomach pain. The certificate Ex.W.14 also does not disclose that the petitioner's wife was treated as inpatient for the stomach pain. Ex.W.14 certificate only says that the period of absence of the petitioner Manoharan from 22-2-86 to 27-2-86 is absolutely necessary for restoration of his wife's health. Though the petitioner claims that he also fell sick from 24-2-86 to 26-2-86, there is nothing on record to show that the petitioner actually fell sick during that period. Therefore, all these things would clearly go to show that the case set up by the petitioner that in view of the fact that his wife fell sick suddenly due to stomach pain on 22-2-86 and since thereafter the petitioner himself fell sick from 24-2-86 to 26-2-86, he could not send the two covers by registered post entrusted to him on 22-2-86 is untrue. For the reasons best known to the petitioner, he failed to send the two covers by registered post, entrusted to him on 22-2-86, for which purpose he was also given Rs. 23.30 and which amount had to be recovered from his salary on 27-2-86 and the said two covers were handed over by the petitioner in his house to the bank staff Ankaiah and Rajarao on 25-2-86. Therefore, the charges levelled against the petitioner that he misused the bank's money of Rs. 23.30 for his personal use, that

the petitioner not carried out the reasonable and lawful orders of the respondent bank and that he kept the important tapals at his house having been clearly proved, correct conclusion has been arrived at by the enquiry officer as per the findings rendered by him under Ex.M.29. Such findings does not call for any interference. In view of the fact that on the basis of such findings rendered by the enquiry officer under Ex.M.29, the petitioner has been discharged from service, Section 25-F of the I.D. Act is not attracted as rightly contended for the respondent bank. However, the punishment of discharge of the petitioner from service appears to be disproportionate relating to the charges levelled and proved against the petitioner.

The point is answered accordingly.

12. POINT No. 2: In view of the answer to point No. 1, the punishment imposed on the petitioner is modified as stoppage of increment for 3 years with cumulative effect and reinstatement of the petitioner without backwages. This point is answered accordingly.

13. POINT No. 3: In view of the answer to Point Nos. 1 and 2, the punishment imposed on the petitioner is modified as stoppage of increment for three years with cumulative effect and the petitioner is entitled for reinstatement without backwages. This point is answered accordingly.

14. In the result, in view of the answer to point Nos. 1 to 3, an award is passed modifying the punishment of discharge from service, imposed on the petitioner as stoppage of increment for three years with cumulative effect and directing reinstatement of the petitioner without backwages. No costs.

Dated at Chennai, this the 21st day of October, 1998.

S. SARDAR JACKARIA HUSSAIN, Presiding Officer,

LIST OF WITNESSES EXAMINED :

For the Workman : For the management :
—Nil— —Nil

LIST OF EXHIBITS MARKED :

For the workman :
Ex.W. 1/27-2-86 —Credit advice.
Ex.W. 2/27-2-86 —1-4-86, 24-4-86—Memo issued by the respondent.
Ex.W. 3/7-6-86 —Reply given by the petitioner.
Ex.W. 4/5-7-86 —Charge sheet given by the respondent.
Ex.W. 5/28-7-86 —Copy of enquiry proceedings.

Ex.W. 6/28-8-86 —Copy of written arguments filed by respondent.

Ex.W. 7 : —do- by petitioner.

Ex.W. 8/22-11-86—Memo given by the respondent along with enquiry findings and show cause notice.

Ex.W. 9/26-11-86—Memo filed by the petitioner with regard to the show cause notice.

Ex.W. 10/8-12-86 —Final order of the disciplinary authority.

Ex.W.11/29-1-87 —Appcal against the order of punishment.

Ex.W.12/15-5-87 —Order of appellate authority.

Ex.W.13/8-8-86 —Certified copy of the trunk call register.

Ex.W.14/11-8-86 —Medical certificate produced by the petitioner.

For the Managements :

Ex.M. 1/22-2-86 —Debit cash voucher signed by Ankaiah for Rs. 23.30.

Ex.M. 2/25-2-86 —Postal receipt for Rs. 21.90.

Ex.M. 3/27-2-86 —Debit cash voucher for Rs. 21.90.

Ex.M. 4/25-2-86 —Debit cash voucher.

Ex.M.5/25-2-86 —Postal cover addressed to Regional office.

Ex.M.6/27-2-86 —Cheque for Rs. 588.66 for salary to petitioner with signature.

Ex.M.7/27-2-86 —Credit voucher recovered from petitioner for Rs. 23.30 with signature on register.

Ex.M.8/27-2-86 —Memo issued to the petitioner from Erode Branch.

Ex.M.9/1-4-86 —Office memo to petitioner.

Ex.M.10/26-4-86 —do-

Ex.M.11/22-3-86 —Acknowledgement.

Ex.M.12/7-6-86 —Explanation by the petitioner to the memo dt. 27-2-86.

Ex.M.13/27-2-86 —Leave application by petitioner.

Ex.M.14/27-2-86 —Attested copy of muster roll dt. 24-2-86 to 1-3-86 of the petitioner.

Ex.M.15/10-11-83 —C.S.E. Particulars of petitioner.

Ex.M.16/29-11-84 —Letter from respondent to Zonal ADM with copy to petitioner.

Ex.M.17/7-2-84 —Salary settlement order.

Ex.M.18/24-7-85 —do-

Ex.M.19/7-8-85 —Memorandum.

Ex.M.20/24-2-86 —Copy of inward trunk call register.

Ex.M.21/17-4-84 —Disciplinary authority from II of respondent.

Ex.M.22/17-4-84 —Memo given to the petitioner.

Ex.M.23/6-6-84 —do-

Ex.M.24/9-7-84 —do-

Ex.M.25/1-8-84 —do-

Ex.M.26/22-7-85 —do-

Ex.M.27/13-8-85 —Letter written by petitioner to the respondent.

Ex.M.28/23-11-85 —Memo given to the petitioner.

Ex.M.29/5-7-86 —Findings of the enquiry officer.

Ex.M.30/ .. —Enquiry proceedings.

नई दिल्ली, 26 फरवरी, 1999

का. आ. 810.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबन्धतंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अतुल्य में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/मद्रास के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-02-99 को प्राप्त हुआ था।

[सं. एल-12012/71/94—आई.आर.बी. II]

सी. गंगाधरन, डेस्क अधिकारी

New Delhi, the 26th February, 1999

S.O. 810.—In pursuance of Section 17 of the Industrial Dispute Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal Madras as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Indian Bank and their workman, which was received by the Central Government on 25-02-99.

[No. L-12012/71/94-IR(B-II)]

C. GANGADHARAN, Desk Officer

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL
TAMIL NADU

CHENNAI-104.

Thursday, the 22nd day of October, 1998

PRESENT :

Thiru S. Ashok Kumar, M.Sc., B.L., Industrial Tribunal,

INDUSTRIAL DISPUTE NO. 167 of 1994

(In the matter of the dispute for adjudication under Section 10(1) (d) of the Industrial

Disputes Act, 1947 between the Workman and the Management of Indian Bank, Madras).

Between

The workman represented by
The General Secretary,
Indian Bank Employees Unions
25, II Line Beach,
Madras-1.

AND

The General Manager,
Indian Bank,
Rajaji Salai, 31,
Madras-1.

REFERENCE ; Order No. L-12012/71/94-IR (B.II).
Ministry of Labour, dated 26-7-94, Govt. of
India, New Delhi.

This dispute coming on for final hearing on Thursday, the 17th day of September, 1998, upon perusing the reference, claim and counter statements and all other material papers on record, upon hearing the arguments of TVs. Row & Reddy, S. Vaidyanathan & K. Indira, Advocates appearing for the petitioner union and of Tvl. Aiyar & Dolia, Advocates appearing for the respondent management and this disputes having stood over till this day for consideration, this Tribunal made the following

AWARD

This reference has been made for adjudication of the following issues ;

“Whether the action of the management of the Indian Bank, Madras in not absorbing Smt. Leelavathi as permanent part-time sweeper w.e.f. 1-7-91 is justified ? If not, what relief is the said workman entitled to?”

2. The main averments found in the claim statement filed by the petitioner are as follows :

The petitioner union represents a substantial number of workman in the respondent bank. The above dispute relates to non-absorption of Smt. Leelavathi as part time sweeper w.e.f. 1-7-91. Smt. Leelavathi joined the services of the Bank as temporary part-time sweeper at Thevaram branch in 1983 in a leave vacancy. After the retirement of the permanent part time sweeper at Thevaram branch of the respondent bank, Smt. Leelavathi was engaged in the permanent vacancy. The workman was engaged during holidays and leave vacancies when Smt., Baiyammal, the then permanent part-time sweeper (now retired) went on leave. Smt. Baiyammal is the mother of Smt. Leelavathi. Several representations were made by the workman to the respondent bank, making copies to the union

but she was not made permanent by the bank. On 30-9-91, a dispute was raised by the union regarding regularisation of Smt. Leelavathi. On 21-5-92 a reply was given by respondent bank to the union's letter that Smt. Leelavathi had not been engaged continuously and her employment was only intermittent and that one Subbulaxmi was working as temporary part time sweeper along-with her. The number of days worked by Smt. Leelavathi was also furnished by the bank. On 15-9-93, the other part time sweeper Subbulaxmi requested the bank to provide permanent part time sweeper's post to Smt. Leelavathi and assured that she would not claim employment in the bank. This letter was forwarded by the Thevaram branch to the Head Office. On 11-10-93 a letter was written by the petitioner union to the Conciliation Officer that the Bank cannot insist on the sponsorship from Employment Exchange for Class IV employees as it is contrary to the judgement of the Madras High Court 1991 TLNJ Page 1 Andhra Pradesh High Court 1992 (1) LLJ Page 651. But the same was denied by letter dt. 13-1-94. Petitioner union came into possession of an inter office communication from Zonal Office, Trichy, to Thevaram branch dated, 12-11-91, wherein a directive was given that Thevaram branch should engage 2 or 3 persons on rotation basis by paying nominal wages, that employment should not be for more than 3 days in a week and that particular person in any event should not be allowed to continue for more than 240 days. The action of the respondent is unfair labour practice, The internal office note from Thevaram branch to Zonal office, Trichy clearly shows that the bank was providing employment to two persons on rotations basis 3 days in a week and their names are 1, Leelavathi and 2. Smt. Subbulaxmi. In another office note from the Regional Office to Thevaram branch, it is mentioned that Smt. Leelavathi should not be engaged during leave and permanent vacancies and to engage a different person on casual basis till such time a permanent part-time sweeper is engaged. The action of the respondent is contrary to By-partite Settlement and awards applicable to the bank and its employees and the Bank cannot insist on sponsorship from Employment Exchange for class IV Employees. Smt. Leelavathi has completed 120 days in a period of 6 months and hence the action of the management in engaging new hands without giving her preference is unjust and illegal. The petitioner prays to direct the respondent to absorb Smt. Leelavathi as a permanent part time sweeper, w.e.f. 1-7-91 with all benefits.

3. The main averments found in the counter statement filed by the respondent are as follows:

Smt. Leelavathi could not be considered for permanent absorption because she was not sponsored through Employment Exchange. The respondent bank is a public sector bank and it is bound to adhere to the guidelines issued by the Govt. of India in regard to recruitment in substaff cadre. The posts of part-time sweeper is classified under substaff cadre in Banking industry. A list of candidates sponsored by Employment Exchange, subject to their satisfying the norms relating to age, educational qualification, etc. are called for. An interview is conducted and the selected candidate is appointed as permanent part-time sweeper. The claimant union has entered into a settlement with the respondent bank on 28-7-93 under Sec.18(1) of I.D.Act.r/w Sec.2(p) of the said Act, agreeing for filling up of vacancy by approaching employment exchange. The claimant union cannot raise this dispute when Smt. Leelavathi is a person who has not been sponsored by the Employment Exchange. On this ground the reference deserves to be rejected in limine. When the permanent part time sweeper at Thevaram branch were to retire on 30.6.91, the respondent bank as per the directive of Govt. of India, initiated the processes of filling up the vacancy through Employment Exchange on 20-3-91. After the completion of the process of selection based on interview held on 9-8-91 a candidate was selected on 13-9-91 for appointment. As the claimant union raised the dispute on 30-9-91 the appointment is kept in abeyance. Even on the merits the claimant union has no case. Subsequently again the selection for appointment of regular permanent part time sweeper was set in motion and a candidate has been selected. Till such time a candidate who has been sponsored through Employment Exchange is finally appointed, one or more persons are engaged on casual basis. Smt. Leelavathi is even now being engaged on such casual basis. She was engaged for 148 days in 1992, 145 days in 1993 and 144 days in 1994. Smt. Leelavathi whose cause for permanent absorption as part-time sweeper is taken up by the claimant union was engaged on casual basis in the leave vacancies of permanent part time sweeper. She would have worked for 331 days from November 1983 till retirement of permanent sweeper on 30-6-91. Smt. Leelavathi is being engaged from 1-7-91 alongwith other similarly situated person in rotation as per the circular no.24/83 dt.4.3.83 of the bank. The bank is under the Administrative control of Govt. of India, The Ministry of Finance, Banking Division, has directed the bank to ensure for the recruitment in substaff cadre irrespective of nature and duration of vacancy only through Employment Exchange. Based on the Communication of Ministry of

Labour that while Notification of vacancies to Employment Exchange in the subordinate cadre is obligatory on the part of all public Sector Establishments. under the Employment Exchange (Compulsory Notification of Vacancies) Act, 1959 the Executive instruction require that all vacancies arising in the Central Govt. Officer/Establishment including statutory organisation, irrespective of the nature and duration of the vacancy are not only to be notified but also to be filled through Employment Exchange. The post of permanent part-time Sweeper belongs to cadre of subordinate staff hence, the bank is under an obligation to recruit permanent part time sweeper through Employment Exchange. Since Smt. Leelavathi was not sponsored by Employment Exchange, she is not eligible to be absorbed as permanent part time sweeper. Smt. Leelavathi has not been engaged continuously and she was engaged intermittently. In July '91 she was engaged for 20 days, in August 12 days, in September 11 days, in October 11 days, in November 13 days and in December 1991 for 12 days. It is not correct that she worked for 120 days in a period of six months. The letter of Smt. Subbulakshmi dated 15-9-93 is not relevant in the teeth of the fact that Smt. Leelavathi was not sponsored through Employment Exchange for being considered for appointment to the post of permanent part time sweeper. The case law referred to by the union in the claim statement are of no avail in the light of the judgements of the Hon'ble Supreme Court reported in AIR SCW 1994P 1366. The guidelines and instructions issued by the banks in normal course of administration are sought to be misinterpreted to put forth an incorrect and untrue case of unfair labour practice. It is not possible for the respondent administration to frame regulation for casual engagement of persons for short duration. As early as in 1983 guidelines were issued by the bank that a casual engagement of a person shall not be more than 12 days in a month. The guidelines was issued in the interest of smooth administration and to complete the selection processes through Employment Exchange, at the earliest. It is denied that act of the bank is unfair labour practice. The recruitment of permanent part-time sweeper through Employment Exchange as per directive of Govt. of India, has been acceded to by the claimant union under a settlement and there is no prohibition for such processes of selection for recruitment and appointment in any of the Bipartite Settlements. The union has virtually stalled the legal process of recruiting and appointing a candidate sponsored through Employment Exchange as per law. There is no legal right inherited in smt. Leelavathi to claim for permanent absorption as part time sweeper and the claim made is contrary to the principle laid down by the Hon'able Supreme Court of India,

Another woman is also being engaged on casual basis. The engagement of any of them on day to day basis depends upon their availability and for the day on which they worked, daily wages were paid. Respondent prays to dismiss the claim.

3. On behalf of the petitioner one Thiru P. Herbert Tensingh who has filed proof affidavit was examined as WW1 and was also cross-examined. Ex. W-1 to W-7 have been marked on behalf of the petitioner. On behalf of the management no witness was examined and Ex.M.1 to M.12 have been marked.

4. The point for consideration is : Whether the action of the management of Indian Bank, Madras in not absorbing Smt. Leelavathi as permanent part time Sweeper w.e.f. 1-7-91 is justified ? If not, to what relief the said workman is entitled to ?

5. The point : Smt. Leelavathi the workman concerned in this dispute was engaged as a temporary part time Sweeper at the Indian Bank, Thevaram branch from 28-2-84, in the leave vacancy of the part-time sweeper till 24-7-91 in the last 7 years she had worked intermittently for nearly 223 days. Her mother Baiyammal who was a permanent part time sweeper in the said branch retired during March 1991. The petitioner union sent Ex. W-1 letter dt. 30-2-91 to the Assistant Commissioner of Labour (Central) raising this dispute to make the said Smt. Leelavathi as a permanent part time sweeper in the said branch. On 25-1-92, the respondent bank sent a reply Ex. W-2 wherein the bank has contended that the permanent part time sweeper retired only on 30-6-91 and the part-time sweeper Smt. Leelavathi who is also daughter of Smt. Baiyammal was engaged only on temporary basis and not continuously and she has worked in the bank for 20 days in July, 12 days in August, 11 days in September and 4 days in October 1991 and has further contended that since the name of Smt. Leelavathi was not found in the list of candidates sent by the Employment Exchange, their request for the post cannot be considered and a candidate sponsored by the Employment Exchange who conformed to the norms prescribed by the bank has been selected. On 15-9-93 the Branch Manager of Thevaram, Indian Bank sent a consent letter of another part time sweeper Smt. Subbulakshmi consenting giving permanent employment to Smt. Leelavathi. For the Ex. W-2 letter of the management, the petitioner union sent a rejoinder Ex. W-4 dated 11-10-93 to regularise services of Leelavathi as permanent part time sweeper at Thevaram branch. The reply to the said letter sent by the management is Ex. W-5 dt. 13-1-94 wherein once again the respondent

management has contended that the vacancy may be filled up by a candidate sponsored by the Employment Exchange and since the said Smt. Leelavathi was not sponsored by Employment Exchange, her request was not considered. On 21-3-94, Assistant Commissioner of Labour (Central) Madras sent Ex. W-6 conciliation failure report. Ex. W-7 is the engagement particulars of Smt. Leelavathi, part time sweeper according to which from the year 1983 till August 1996 she has worked for 1090 days.

6. The contention of the petitioner union is that though Smt. Leelavathi has not been sponsored by the Employment Exchange she should be appointed as a permanent part time sweeper in the respondent bank since Employment Exchange Act, excludes the last grade servants and unskilled workers. The contention of the management is that the bank is bound by the guidelines issued by Government of India and as per the guidelines only candidates sponsored by Employment Exchange alone may be selected and appointed in any post in the bank and the same principle has been accepted in a settlement dt. 28-7-93 between the employees union and the respondent management. Ex. M.1 is a letter of Government of India dt. 30-9-78 wherein it has been specifically directed that all vacancies except those filled through UPSC and SSC are not only to be notified but also to be filled through Employment Exchange alone and other permissible sources can be tapped only if Employment Exchange issues non-availability certificate. Ex. M.2 is a circular dated 4-3-83 regarding engagement of persons during leave vacancies of sub-staff wherein the selection procedure has been mentioned and there is a specific direction that candidates should be selected only through Employment Exchange to fill up the vacancies and if employment exchange is not able to sponsor candidates conforming to the bank's norms, non-availability certificate should be obtained from Employment Exchange and Regional and Zonal Managers have been strictly instructed not to engage any person who has not been sponsored by Employment Exchange after 1-4-81 and service of any candidate engaged like that should have been dispensed with. Ex. M.3 is a settlement dated 28-7-93 reached u/s. 18(1) of the I.D. Act between the Management of the respondent bank and Federation of Indian Bank Employees Union in the matter of filling up of part time sweeper. Under Clause 6(i) and (ii) it has been agreed that the candidates should be selected through Employment Exchange to fill up the vacancies caused by retirement, promotion or redesignation of a part-time sweeper. In fact on 6-4-91, the Thevaram branch has called for list of candidates for the post of part time sweeper and the said letter is Ex. M.4. The list of candidates sponsored by Employment Exchange which contains 20 candidates is Ex. M.5. The name of the concerned

workman Smt. Leelavathi is not found in the list of candidates Ex. M.5. Once again the said bank has called for another list of 10 candidates Ex. M.6 for the same post. The Employment Exchange has sent another list of 20 candidates wherein the name of concerned workman is not found and the said list is Ex. M.7, the Employment Exchange has sent 2 more candidates on 9-2-95 and the said list is Ex. M.8. When the respondent bank asked for some more list of candidates by letter dt. 8-3-95 marked as Ex. M.9, the District Employment Exchange at Madurai has informed that no more local candidates are available on the live register of the office except those who have been already nominated. The call letter sent by the respondent to the candidates to appear for interview is Ex. M.10. Based on the interview conducted on 28-6-94 a candidate sponsored by the Employment Exchange was selected, but appointment order could not be issued since this dispute was pending in the Tribunal. From the facts stated above, it is clear that the concerned workman Smt. Leelavathi has not registered her name in the Employment Exchange, and therefore she was not sponsored by the Employment Exchange and therefore she could not be appointed as a permanent part time sweeper a post which was hitherto held by her own mother Smt. Baiyammal. Th. P. Herbert Tensingh Deputy General Secretary of the petitioner union who filed the proof affidavit and appeared for cross-examination has admitted that he does not know whether Smt. Leelavathi has registered her name in the Employment Exchange, that from 1983 till 1998 Smt. Leelavathi has not worked for 240 days in any year and also that it is correct to say that since Smt. Leelavathi did not register her name in the Employment Exchange and since Employment Exchange did not sponsor her name the bank is not able to give her appointment. Above all in Ex. M.3 settlement, where the employees' union is a party, they have specifically agreed that part time sweepers should be employed only through Employment Exchange.

7. The learned counsel for the petitioner submitted that candidates who are not sponsored by Employment Exchange should also be considered as decided by the Hon'ble Apex Court in 1996 (6) SCALE THE EXCISE SUPDTT. MALKAPPATNAM Vs. K.B.N. VISWESWARA RAO & ORS. as follows :

"It is common knowledge that many a candidates are unable to have the names sponsored, though their names are either registered or are waiting to be registered in the employment exchange, with the result that the choice of selection is restricted only to such of the candidates whose names come to be sponsored by the employment exchange. Under these circumstances, many a

deserving candidate are deprived of the right to be considered for appointment to a post under the State. Better view appears to be that it should be mandatory for the requisitioning authority/establishment to intimate the employment exchange, and employment exchanges should sponsor the names of the candidates to the requisitioning Departments for selection strictly according to seniority and reservation, as per requisition. In addition the appropriate Department or undertaking or establishment should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio, television, and employment news-bulletins, and then consider the cases of all the candidates who have applied. If this procedure is adopted, fair play would be observed. The equality of opportunity in the matter of employment would be available to all eligible candidates."

What the Hon'ble Apex Court has directed is that apart from requisitioning the employment exchange for sponsoring the names of candidates, the appropriate Government or undertaking or establishment should call for the names by publication in the newspapers having wider circulation and also display on their office notice boards or announce on radio television etc. The Hon'ble Apex Court has not excluded requisition to Employment Exchange to sponsor the candidates. In 1992 II LLJ P 452, the Hon'ble Apex Court has held as follows:

"It had become a common practice to ignore the Employment Exchange and the persons registered in the Employment Exchange and to employer get employed directly those who are either not registered with Employment Exchange or who though registered are lower in the long awaiting list in the Employment Register. Such employment is sought and given directly for various illegal considerations, including money. The employment is given first for temporary periods with technical breaks to circumvent the relevant rules and is continued for 240 or more days with a view to give the benefit of regularisation, knowing the judicial trend that those who have completed 240 or more days are directed to be automatically regularised. A good deal of illegal employment marked has developed resulting in a new source of corruption and frustration of those who are waiting at the Employment Exchange for years."

In this case the concerned employee has not worked for 240 days continuously in any calendar year and in her total service of 14 years she has worked for 1080 days and that too during the leave period of

her own mother who was a permanent part time sweeper. Apart from Smt. Leelavathi another temporary part time sweeper is also working in the same bank. Ex. M.1, M.2 office guidelines of the Ministry of Labour of Government of India, Circular of the Head Office of respondent bank and Ex.M.3 the settlement between the Federation of Employees Union and the respondent management have clearly mentioned that appointment of part time sweeper should be only through selection of candidates sponsored by the Employment Exchange and the Employment Exchange has also sent two lists wherein name of the concerned workman is not found. In fact, a candidate sponsored by Employment Exchange has been selected but could not be appointed because of the pendency of this Industrial dispute.

In the result, award passed holding that the action of the management of Indian Bank, Madras in not absorbing Smt. Leelavathi as permanent part-time sweeper w.e.f. 1-7-91 is justified and the said workman is not entitled to any relief. No costs.

Dated, this the 22nd day of October 1998.

S. ASHOK KUMAR, Industrial Tribunal.

WITNESSES EXAMINED

For Petitioner-workman :

W.W1 : Th. P. Herbert Deasingh

For Respondent-management : None

DOCUMENTS MARKED

For Petitioner-workman :

ExW-1/30-9-91 : 2(K) dispute (xerox)

W-2/21-5-92 : Respondents' letter (xerox)

W-3/15-9-93 : Inter-departmental letter enclosing Subbulakshmi's consent letter (xerox)

W-4/11-10-93 : Petitioner's rejoinder with 7 enclosures (xerox)

W-5/13-1-94 : Respondent's reply (xerox)

W-6/21-3-94 : Conciliation failure report (xerox)

W-7/3-6-96 : Petitioner's engagement particulars prepared by the respondent (xerox)

For Respondent-management :

Ex.M.1/30-9-78 : Govt. of India letter (xerox)

M-2/4-3-83 : Bank's circular (xerox)

M-3/28-7-93 : Settlement (xerox)

M-4/6-4-91 : Letter from respondent to Employment Exchange Madurai (xerox)

M-5/30-4-91 : List of candidates from Employment Exchange Madurai (xerox)

Ex.M.6/4-7-94 : Letter from respondent to Employment Exchange, Madurai (xerox)

M-7/31-10-94 : List of candidates from Employment Exchange, Madurai (xerox)

M-8/9-2-95 : List of candidates from Employment Exchange, Madurai (xerox)

M-9/8-3-95 : Letter from Employment Exchange, Madurai to the respondent (xerox)

M-10/30-5-95 : Letter from Regional Office to branch office (xerox)

M-11/21-7-95 : Letter from Zonal Office to Central Office (xerox)

M.12/1-8-95 -do-

नई दिल्ली, 25 फरवरी, 1999

का. आ. 811.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एअर इंडिया लिमिटेड के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मुम्बई-2 के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-2-99 को प्राप्त हुआ था।

[सं. एन-20030(15)/95-आई.आर. (सी-1)]

एसएम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 25th February, 1999

S.O. 811.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Mumbai-2 as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Air India Ltd. and their workman, which was received by the Central Government on 23rd February, 1999.

[No. L-20030(15)/95-IR(C-I)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/47 of 1996

Employers in relation to the management of Air India Ltd.

AND

Their Workmen.

APPEARANCES :

For the Employer—M/s. Bhasin and Co., Advocates.

For the Workmen—Ms. Kunda Samant, Advocate.

Mumbai, dated 19th January, 1999

AWARD—PART-II

On 7th August, 1997 by Part-I Award (Ex-17) I came to the conclusion that the domestic inquiry which was held against the workman was against the Principles of Natural Justice, and the findings of the inquiry committee are perverse. I also directed the management to lead evidence to substantiate its action.

2 Being aggrieved by the order Air India Ltd. (for brevity sake referred as management) filed a Writ Petition No. 1652 and 1997. The Writ Petition came to be rejected.

3. Now the issues that fall for my consideration and my findings there on are as follows :

Issues	Findings
1. Whether the action of the management of Air-India in dismissing Mahesh Lalla Assistant Flight Purser w.e.f. 13-12-91 is justified?	In the negative.
2. If not, to what relief the workman is entitled to?	As per order

REASONS

4. Before giving reasons for my findings on the issues for better appreciation of the case it is necessary to give in nut-shell the facts of the present Industrial Dispute. Mahesh Lalla (here in after referred to as the workman) was Assistant Flight Purser with the management. He was booked in a flight to Rome. On 20th December, 1989 he operated shuttle Rome/Fara Rome. A crew member of the management were accommodated on the first floor of a Hotel by name Holiday Inn at Rome, Italy, at their lay over period.

5. The crew members were allotted separate rooms. They were Sabina Sethi, the complainant (202); Deepika Kuthiala (209); Gail D'Souza (225); Joaquim Vaz (210); Vinod Purohit (236), and the workman (220). Renu Sahani and Annulla Pradhan. Air hostesses; Rajput and Limbowalla, supervisors were also on the first floor. For convenience sake all these persons are referred to in the letter portion of the reasons by their first name.

6 On 21st December, 1989 the workman, Joaquim Gail and Vinod were having tea in room No. 210 occupied by Joaquim at about 5.00 p.m. Deepika and Sabina went there. There was a discussion regarding the programme in the evening. It was decided to have a drink session and then dance. Sabina offered to purchase Vodka as it was informed that there was no sufficient drink in the room for all of them.

7. After returning from shopping Sabina handed over the Vodka container in Joaquim room. She in-

formed that she will go to her room and return after sometime Sabina intimated that she has to go for a dinner with her local friend and will come for the dance party.

8. The workman, Joaquim, Gail and Vinod were having drinks. Sabina joined them. Sometime later Joaquim, Vinod and Gail were in the balcony. They were smoking and talking. Gail left the room suddenly by picking her room keys from the table. She was followed by Joaquim and thereafter Vinod leaving behind Sabina and the workman in Room No. 210. It is alleged that there after when Sabina wanted to leave the room the workman stopped her and asked to kiss him. But, she refused. He felt angry. He pushed her on the bed, He sat on her stomach. When she was screaming, he covered her mouth by hand. He poured whisky in her mouth. She turned, The whisky entered in her eyes and ears. The whisky fell on the clothes and bed covers. She started screaming and told the workman that her eyes are burning and she wanted to wash it. He then took her to the bath room. In the process of washing her eyes she vomitted. The worker helped her to do so. While going back to the room she wanted to go out of the room but the worker pulled her again and pushed her on the bed. He stripped down to his briefs. He poured some whisky on her. She started shivering. She tried to cover her body with the bed covers which he pulled. He poured remaining drinks from the glass on her body. She was frightened. He then shoved his hand into her shirt and broke bra hooks. She felt like vomitting again and wanted to go to the bath room. He did not allow her to do so and asked her to vomit it in the room itself which she did. She started crying. Atleast he said 'go out of the room'. She continued to cry. He abused her by 'bloody bitch' and uttered abusing language. Atleast he pulled her to her feet and pushed her out of the room. She went back to her room No. 202.

9. Next day morning Gail returned to Sabina one ear ring which was fallen in room No. 210 and went back. Sabina then went to Deepika's room and narrated her story. She asked her to keep quiet. Ultimately Sabina reported it to Rajput and Limbowalla. She was told to give a complaint in writing. She gave a brief report M-6 on 23-12-89 to be included in the flight report. They reached Delhi on 24th December '89 and then to Bombay. On 25th December '89 it was a holiday. On 26th December she gave detailed complaint M-7 to Mr. Verma Deputy Manager of IFS.

10. The workman was served with a Memo which he replied. He asked for a copy of the complaint given by Sabina which was not given alongwith the Memo. Ultimately he was served with a chargesheet dated 19/24-4-90.

11. M-1 is a chargesheet. It can be seen that details of facts as narrated by Sabina are reproduced there and at least it is mentioned that :

- (i) Acts subversive of discipline and good behaviour.
- (ii) Disorderly and indecent behaviour with a co-worker.

- (iii) Conduct not conducive to the best interest, credit and prestige of the Corporation.

Later on the said chargesheet was converted into Model Standing Order. That chargesheet is dated 5th/9th October 1990. It reads :

The misconduct with which you are charged falling under Regulation 42(i), 42(xi) and 32 falls within Clause 14(3)(h) of the Model Standing Orders which reads as follows :

Disorderly behaviour and act subversive of discipline."

The workman denied all the charges.

12. The inquiry committee found the workman guilty of the charges. The Disciplinary Authority accepted the report. The workman was dismissed from service on 30-12-91.

13. To justify the action the management examined Sabina (Ex-23). As against that the workman examined himself at Exhibit-33. He also examined Vinod (Ex-37), Joaquim (Ex-39); Gail (Ex-40). He also examined one E. L. Lyngdoh (Ex-38) a Senior Check Airhostess and Kallappa Dasbrath Gaikwad (Ex-43) the police constable Buckle No. 15202 from Sahar Police Station. He produced documents as per the summons. These witnesses have referred to some of the Exhibits which were in the inquiry proceedings. This material which is placed before the Tribunal as a fresh evidence after Part-J Award was passed.

14. Admittedly the incident took place at Holiday Inn Hotel, Rome. It was a lay over period. The workman and Sabina are the cabin crew of the management.

15. Mr. Samant, the Learned Advocate for the workman argued that the management had no authority to issue a chargesheet to the workman as the alleged incident took place in the period of lay over. In other words he was not on duty. It is therefore the management cannot take any action. It is further argued that regulations don't permit to issue chargesheet when an employee is not on a work and in the establishment. To substantiate this argument she placed reliance on *M/s. Glaxo Laboratories Vs. Presiding Officer, the Labour Court Meerut AIR 1984 Supreme Court 505* and *Palghat BPL and P.S.P. Thozhilali Union and BPL India & Anc. 1997 II LLJ 141*.

16. Mr. Talsania, the Learned Counsel of the management advocated that there is no merit in the argument on behalf of the workman. According to him lay over period even though rest period the workman or the employee are treated on duty. His hotel bills are paid by the management. All other arrangements are made by the management. He further submitted that the charges which are levelled against the workman definitely gives jurisdiction to the management "Whether he was on the work or not? or that he is in the premises of the company or not". He placed reliance on *Mulchand Technical and Radio Industries Limited Vs. Workmen AIR 1975 Supreme Court 2125* and *Murlidhar Ragogi Sawant Vs. General Manager Mather & Platt Limited 1991 II CLR 817*.

17. In *Mulchand's* case Their Lordships of the 'Apex Court' had observed that an assault by a superior on a chageman of same factory would be an act subversive of discipline. The fact that the assault was committed outside the factory (in suburban train while the charge man assaulted was going home) would not take out the above standing order. The words 'within the premises or precincts of the establishment' referred not the place whether the Act which is subversive of discipline or good behaviour is committed but whether the consequences of such an Act manifests itself. In other words the Act wherever committed if it has an effect of subversive discipline or good behaviour then the premises or precincts of the establishment will amount to misconduct under the standing order 24(1).

18. In *Glaxo Laboratories* Their Lordships of the Supreme Court were referring to different standing orders. They have observed that no extra territorial jurisdiction under the standing orders to punish for misconduct. Time, place where it is committed, whether it is in the premises of the establishment or its vicinity are material. Relying on this authority it is tried to submit that the alleged act had taken place at out station and further in lay over period. The management had no jurisdiction.

19. In *Murlidhar Sawant's* case His Lordships of the Bombay High Court had considered the *Glaxo* case and that of *Mulchand's* case also. It is observed by His Lordship that the principles laid down in the *Mulchand's* case are still applicable and the observations in *Glaxo's* case are in respect of a particular order.

20. The facts of the case and the ratio which is given in *Mulchand's* case and in *Murlidhar Sawant's* case clearly go to show that the management was in its right to issue the chargesheet to the workman. It has no jurisdiction to do so.

21. The Learned Advocate for the worker tried to initiate a theory that this is a 'quasi criminal proceeding' and not strictly a service matter in ordinary parlance industry. Hence the complainant has to discharge her onus of proving her allegations. The allegations in the chargesheet (M-1) (Ex.-8, pg. 135) deals with molestation, attempt to commit rape, Acts subversive of discipline and good behaviour, disorderly and indecent behaviour with a co-worker and the conduct which is not in the interest of the company. The authorities on which reliance is placed to show that Sabina in turn the management should prove the allegations is required to be proved in criminal trial. This reflect in the cross-examination of Sabina and also in the written argument (Ex-49) filed for the workman. This argument is to be simply rejected as not tenable.

22. It is well settled from the cannon of authorities that a disciplinary proceeding is not a criminal trial. The set of proof required is that of preponderance of probabilities and not proved beyond reasonable doubt. It is also observed that in a domestic inquiry the strict and sophisticated rules of evidence under the Evidence Act may not apply. All materials which are logically probative for prudent mind are permissible, there is no bar to hear say evidence provided it has reasonable nexus and credibility. The departmental authorities and administrative Tribunals must be careful in floating such a material, should not glibly swallow what is

strictly speaking not relevant under the Evidence Act (AIR 1977 Supreme Court 1512 and State of Haryana and Anr. V/s. Ratan Singh).

23. In *J. D. Jain V/s. Management of State Bank of India* AIR 1982 Supreme Court 673. Their Lordships observed that the law is well settled that the strict rules of evidence are not applicable in a domestic inquiry. The word hear say is used in various senses. Sometimes it means what ever the person has hear to say, sometimes it means what ever the person declares on information given by some one else. For the purpose of departmental inquiry complaint certainly unfrivious but substantiated by circumstantial evidence is enough. The theory works in a domestic inquiry as 'Whether on preponderance of probability the charges are proved or not?'

24. The Learned Advocate for the workman in her written argument and in her oral submission submitted that for the consideration of this Tribunal (material on record) means the inquiry proceedings and the evidence lead before the Tribunal. In the written arguments there is a reference of the earlier inquiry proceedings and the depositions therein. To substantiate this contention she placed reliance on the workman of *M/s. Fire Stone Tyre and Rubber Company of India Pvt. Ltd. Vs. Management and Other* 1973 1 LLJ 278 and the workman *Kumali Vs. Labour Court Ernakulam* 1989 LAB IC 1984.

25. The Learned Counsel for the management on the other hand placed reliance on *Neeta Kapilesh Vs. Presiding Officer Labour Court and Anr.* JT 1998 (8) SC 315. He submitted that on the basis of this authority (material on record) which is contemplated under section 11(A) of the Act is Evidence before the Tribunal and nothing more.

26. In *Neeta Kapilesh* case Their Lordships had considered the ratio given in the *Fire Stone* case. That was a case where the clerk in the medical college was chargesheeted and a domestic inquiry was conducted against him. His contention was that the inquiry which was conducted against him was against the Principles of Natural Justice. The Tribunal came to the conclusion that the inquiry was not fair. It directed the management to lead evidence. In stead of leading evidence the management filed a purshis that they relied upon the inquiry proceedings which is already on the record and don't want to lead fresh evidence. Other than that nothing was deposed by management witnesses. In view of this position the workman filed a purshis that as no new evidence is lead by the management they do not want to lead further evidence. Then the Presiding Officer came to the conclusion that the charges are proved and the punishment which was awarded was proper. The High Court upheld the contention. While dealing with the matter Their Lordships of the Apex Court came to the conclusion that the 'record pertaining to the domestic inquiry would not constitute fresh evidence as those proceedings have already been found by the labour court to be defective'. Such record would also not constitute material on record as contended by the counsel for the Respondents within the meaning of section 11A as the inquiry proceedings on being found to be bad have to be ignored all together. In view of the nature of the objections raised by the appeal the record of inquiry held by the management seems to be material on record within the meaning of section 11A of the Act and the only course open to the management was to justify its action by leading fresh evidence as required by the labour court. Relying on the ratio in this authority the material on the record before this Tribunal is the deposition of Sabina, workman Vinod, Lyngdoh, Joaquim, Gail and Kallappa. There is also reference by these witnesses to some of the documents on the record. They formed fresh material on record.

27. From the evidence on the record the following facts are either admitted or otherwise undisputed :

- (i) That the workmen Joaquim, Gail, Deepika, Sabina, Vinod, Rajput, Limboowalla, all crew members of the management were staying on the first floor of Hotel Holiday Inn at Rome on 22nd December, 1989 being on lay over.
- (ii) Each of them have separate rooms.
- (iii) The workmen Gail, Joaquim and Vinod were in the

same hotel and in their respective rooms on 22nd December, 1989 also.

- (iv) Despite having separate room the workman was staying with Joaquim in room No. 210.
- (v) On 20th December, 1989 in the evening there was a drink party/session in the room No. 210, Joaquim, Gail, Vinod and workman participated in it. At the end of the drink session four to five pegs of Vodka were in the room.
- (vi) Gail, Joaquim and the workman were always together during the days of the lay over and even at all their meals together.
- (vii) The workman, Gail, Joaquim, Vinod had gone for shopping on 21st December, 1989 in the afternoon where Sabina and Gail met each other. They knew each other but others did not know Sabina. Gail was aware of the fact that Sabina was going steady with one Mr. Sharma who was also a flight pursuer and a married man.
- (viii) No liquor was purchased by Vaz, Gail, Vinod or the workman at that time.
- (ix) In the evening of 22nd December, 1989 Sabina and Deepika went to the room of Joaquim where the workman, Vinod and Gail were sitting. They were having tea. Upon inquiry by Sabina and Deepika about the programme in the evening Gail informed them that there would be a drink session in the night in the room and they may go out for dancing. Both Mrs. Deepika and Sabina expressed their willingness to join Gail and Co. in the programme. There upon it was informed to Gail that there was no sufficient liquor available in the room and some one will have to go to market and get some liquor.
- (x) Sabina volunteered to get Vodka since she was in any case going to the market. When Sabina returned from the market and left the bottle containing 750 ML of Vodka in room No. 210 of Joaquim. She joined the party after some time. At that time the drinking and dancing was going on in the room.
- (xi) Gail, Joaquim and Vinod went into the Balcony. After some time Gail left the room suddenly. She was followed by Joaquim and thereafter Vinod. There is a controversy on what time when Vinod left the room.
- (xii) At some point of time all the three left the room leaving behind the workman and Sabina alone in the room.
- (xiii) The workman informed Deepika even though without talking to his colleagues that the dancing programme was cancelled.
- (xiv) One of the ear rings of Sabina was found in room No. 210 which was returned to her by Gail on the next day morning.
- (xv) When in the night Joaquim came back to his room he found the room and the toilet shabby and dirty due to the vomiting of Sabina. Neither the workman nor Joaquim called the house keeping staff of the hotel for cleaning.
- (xvi) On 22nd December, 1989 in the morning Sabina told Gail in front of Deepika that the workman misbehaved with her.
- (xvii) On 22nd December, 1989 while going for shopping Gail told Joaquim who in turn told the workman that Sabina had made allegations against him about his misbehaviour.
- (xviii) In the evening of 22nd December, 1989 Mr. Rajput the Flight Supervisor talked to Ms. Gail about the allegations made by Sabina.
- (xix) Though the workman tried to talk to Sabina with the help of Gail he either talked to Rajput or any official of Air India.

(xx) On the return flight on 23rd December, 1989 Sabina had shown Vinod the mark on her face which according to her was caused by the workman.

28. As against these admitted facts the following facts are disputed and on which there is controversy :

- (a) Did Ms. Sabina Sethi went to her room at around 8.00 p.m. on 21st December, 1998 with the workman to get a container of Vodka from her room ?
- (b) Did Mr. Joaquim Vaz, Ms. Gail D'Souza and Mr. Vinod Purohit left the room No. 210 simultaneously on Mr. Vinod Purohit left the room 15 minutes later ?
- (c) Did Mr. Joaquim Vaz and Mr. Vinod Purohit come back to room 210 after they left the room ?
- (d) Whether or not there was whisky in the room No. 210 of Mr. Joaquim Vaz, in the evening of 21st December, 1989 ?
- (e) What exactly happened between Ms. Sabina Sethi and the workman when they were alone in room No. 210 ?

The findings on the points of controversy are very material to prove whether the charges levelled against the workman are proved or not.

29. Gail and Joaquim were going steady with each other. They were thinking of getting married. Vinod is very close to them. It is pertinent to see that when Sabina gave a complaint to Sahara Police Station (Ex. M/8A pg. 260 of Ex. 8) including the workman these three persons are shown to be co-accused. They are turned as conspirators to leave Sabina in a room where workman was there. The interest of these witnesses is one and the same, like that of the workman. All the time they used to be together. Naturally the interest is to safeguard the workman. In other words it has to be said that these witnesses are partisan witnesses. Generally speaking oral testimony may be classified in to three categories viz. : (a) wholly reliable, (b) wholly un-reliable, (c) neither wholly reliable nor wholly un-reliable.

30. Sabina admittedly had an affair with one Sharma. She frankly admits the photographs which are produced at Exhibit-30. Lyngdoh the Ex-wife of Sharma deposed that she had given these photographs to the workman. She affirmed that she filed a Divorce Petition against Sharma wherein she contended her husbands affairs with Sabina. She got the Divorce. She is unmarried. Sabina did not marry with Sharma but married to one Michael. I do not want to comment whether she should have a relation with Sharma or not but looking to the photographs Exhibit-30 and the postures which are given by her clearly go to show that she cannot be said to be a normal lady. In the normal circumstances nobody would like to expose in such a fashion. Under such circumstances her every version is to be looked into very cautiously. All these aspects have to be kept in mind while appreciating her testimony.

31. Now it is to be seen whether Sabina went to her room at around 8.00 p.m. while the party was going on alongwith the workman to get the container of Vodka from her room. Sabina categorically denied this position. On the other hand Gail, Joaquim and Vinod alongwith the worker corroborates each other on this point. In the evening of 21st December, 1989 when they had a discussion in respect of the programme in the evening it was noticed that there was no sufficient quantity of alcohol in the room. Joaquim affirmed that four to five pegs of Vodka was in the room. Sabina offered to purchase the Vodka as she was going to the market. In fact some amount was given to her to bring one full bottle of Vodka. But she purchased 750 ml of Vodka which comes to approximately 134 pegs. She handed over the container to Joaquim in room No. 210. That means after getting that bottle there were about 18 pegs of Vodka. Joaquim and Gail affirmed that they had two pegs of Vodka. So what remains is 14 pegs of Vodka. Even if it is said that they are not deposing correctly I take it that all these men had about four pegs of Vodka. That comes to 12 pegs. Then in that case six pegs are left. Gail had two pegs leaving behind four pegs for Sabina. It is common knowledge Vodka is a very hard drink. That

much quantity of Vodka is very much sufficient for a lady. There is nothing on the record to come to the conclusion that as the drink was of lesser quantity or that it was not sufficient Sabina wanted to go to her room and to bring the Vodka container. Therefore I find that the theory which is brought on the record that Sabina went to her room at about 8.00 p.m. and got a container of Vodka is not acceptable.

32. Gail deposed that when she was in the balcony alongwith Joaquim and Vinod she was teased by them. It is therefore she left the room suddenly. Joaquim affirmed that he immediately followed her to pacify her. It is the case of Sabina that Vinod also followed them immediately but Gail, Joaquim, Vinod and the workman denied this. According to them Vinod informed the workman and Sabina what had happened in the gallery and Joaquim followed Gail to pacify her. He was seeing the T.V. and had drinks with them. In normal circumstances as Gail and Joaquim were going steady, when Gail was disturbed due to the remarks of Joaquim and Vinod it was a natural conduct for Joaquim to follow first. He must have followed her immediately and not Vinod. No doubt Vinod being a party to that episode he must have gone later on. Therefore the testimony of these witnesses that Vinod waited for a while or about 10—15 minutes and then went to the room of Gail where Joaquim was there appears to be probable. I accept it.

33. Gail and Joaquim left the room when it was around 9.00 p.m. When Vinod left it, it was quiet natural for him to ask them whether they will be having dinner with them or not. The testimony of Gail, Joaquim and Vinod to the fact that Vinod returned back to room No. 210 for inquiring the workman and Sabina whether they are going for a dinner or not and again going to the room of Gail appears to be not probable. All of them are not deposing correctly in this regard. Further they have deposed that Joaquim came for changing his pants. He took it out of the suit case got it changed and went. Later on when they were going towards down stairs Vinod inquired to Joaquim whether he brought his cigarettes. On getting the answer in the negative he went back to the room for bringing the cigarettes again appears to be incorrect. Because it is not that Vinod left the room hurriedly. In the normal course he must have taken his cigarette back when he left the room. They are deposing to this effect only with a view to show that the workman and Sabina were not left in the room without their peeping into the room in intervals. I am not ready to accept the testimony of these persons on the point that Joaquim and Vinod returned to the room after they left the room and before having the dinner. So far as Vinod is concerned he did not return to that room again after once he left. So far as Joaquim is concerned after dinner he had been to the room of Gail alongwith her dinner packet which she took with her and returned back to room No. 210 very late.

34. Now it is to be seen whether there was a whisky in the room and that what might have happened in room No. 210 when Sabina and workmen were alone. A sketch of room No. 210 of Holiday Inn is produced along with Statement of Claim. The workman had produced photographs of Hotel Holiday Inn alongwith Exhibit-7. These photographs are admitted by Sabina. After perusal of the photographs it can be very well seen that the rooms on the first floor are closed to each other, the corridor is not very much big in width. The round table on which the whisky bottle was seen by Sabina was near the gallery. One bed is near to that table. Keeping some place there is another bed which is adjacent to the toilet. In between the beds there is a small table. A toilet block is also shown. These photographs and the sketch gives a graphic picture of the room of the hotel.

35. Sabina deposed that the whisky bottle was on the round table which is near the balcony. She affirmed that she was pulled by the workman and thrown on the bed which was near to the toilet and close to the door of the room. Thereafter he sat on her stomach. From seeing the photographs it can be seen that it is not possible for a man to get bottle of whisky from the round table in that position. There is no evidence to show that that bottle was kept on a table which was between the two beds. It is the case of Sabina that he poured the whisky in her mouth. Looking

to this position it appears that the whisky must not be there.

36. Sabina affirms that her clothes were drenched. She claims to have shown her clothes to Deepika. There is no evidence of Deepika. Gail denied to have seen such clothes. The Forensic Experts report (Ex-44/4) states that the articles which were sent for analysis viz, the clothes of Sabina do not have residue of alcohol. This also supports the case of the workman that there was no whisky.

37. From the evidence it speaks that when they decided to have a drink session in the evening it was confirmed that there was no sufficient drink in the room. If really 1/2 bottle of whisky that means about six pegs would have been in the room. The six pegs which they were having would have been sufficient for the evening party. As the whisky was not there resulting into no sufficient drinks in the room Sabina offered to purchase the Vodka of her share.

38. Sabina affirms that after sitting on her stomach the workman poured whisky in her mouth. She was refusing to drink it and in that process when she moved her neck the drops of whisky entered into her eyes and ear. It started giving burning sensation. She wanted to wash it. She felt that she would be blind. Thereafter the workman allowed her to go to the bath room for washing the eyes. In other words as per her version at least for sometime the drops of whisky were in her eyes. If that would have been so there would have been natural result of the same. Her eyes would have been reddish. She would have shown the same to her colleagues on the very night or even on the next day morning. It is not her case that she applied some medicine for getting relief. As that is to the version of Sabina that whisky drops entered into her eyes appears to be not correct resulting into the whisky was not in the room.

39. The charge on the workman is based on the things which happened in the period when Sabina and the workman were in the room and nobody else were there. Sabina affirmed "I waited for about 2 minutes but since no one returned to the room in the mean time. I also got up to leave the room. He again coerced me to finish my drink before leaving, I did not like his manner and made towards the door. He ran after me to the door, ruled me back violently and turned me around and asked me to kiss him at which I said "I do not kiss any Tom, Dick or Harry and you have no business to ask me", which he did not seem to like and he said now I will teach you, you bloody bitch. He pushed me violently on to the bed, sat across on my stomach, pinning me down to the bed and covered my mouth with his hands to stop my screaming and kept saying "stop screaming you bloody bitch stop screaming". He poured whisky down my throat forcibly, holding my mouth which left a nail mark on my cheek which was shown to Mr. Rajput on 23rd December, 1989. I had noticed the whisky lying (half bottle) on the centre table between the chairs earlier in the evening. He poured the whisky down my throat forcibly which was causing suffocation and as I could not move my hands to fight back or even scream and to avoid the whisky from suffocating me. I twisted and turned my face in desperation due to which the whisky entered my ears and eyes. The whisky started burning my eyes and some fell on my face and clothes also. I kept screaming that the whisky was burning my eyes and I will go blind".

40. Sabina further deposed that the workman poured remaining whisky on her clothes and the drinks which were in the glass. Her body was shivering. He shoved his hands into her shirt and broke bra hooks which frightened her more. There are other aspects also which I will be dealing incidently.

41. The workman on the other hand deposed stating that all these allegations which are made by Sabina are false. On the contrary he affirmed that she was drunk, she was not behaving like a lady, she was making advances towards him which was not agreeable, which resulted into this episode. For better appreciation now I will like to deal with each of the allegations made by Sabina against the workman.

42. Sabina alleged that the workman set on her stomach. But she admits that he did not touch her lower part of the body nor tried to remove it. In her complaint nor in the testimony there is allegation that while sitting on her stomach he touched her breasts. If really as per her version in the complaint that he wanted to commit a rape or that he wanted to molest her then in that case it was a natural consequence that keeping his hand on her breasts. Her case is that when she was screaming his hand was on her mouth. Even for the sake of argument it is accepted that as one hand was engaged for closing her mouth her other hand was empty. If really he had any intention to rape her he would have definitely fondled her breasts or did something like that manner. He would not have waited till the next occasion which is alleged by Sabina that he pulled her back, thrown her on the bed and then shoved his hand and broke the bra hooks. That would have been done in the first instance itself. The workman is a huffy man. If he would have sat on her stomach and as per her version her hand was below his knees it was not fun making in that case she must have got some injury which she would have in a position to report to her colleagues immediately. As nothing of that sort had taken place I am not inclined to accept that he sat on her stomach.

43. Sabina affirms that when she complained to the workman that her eyes are burning she was allowed to go to the toilet for washing it. The workman followed her. She felt like vomiting, she did it. At that time the workman helped her. She admits the position that in the toilet the workman did not try to molest her. If really the workman had any intention to molest her then the place is immaterial. He would have done so in the toilet also. Not only that the workman helped her to vomit by holding her head. That clearly goes to shows that he had no such intention as alleged by Sabina.

44. Sabina affirmed that the workman stripped himself to his briefs. If really he had an intention to rape there was no need for him to stop at that end. In fact there was nobody to stop him there. Sabina had her drinks. She was sickly. Under such circumstances this allegation is made only with a view to support the other case which is tried to make out. I am not inclined to accept it.

45. Sabina affirmed that due to the pouring of the whisky and from the drinks in the glass the bed sheets and bed covers were got wet. That would have been in fact a very good evidence to show that what the workman did. They were not shown to any body. It is needless to say that the workman had denied all this. No doubt when Joaquim came into the room he saw the room was in a shabby condition. It is because of the vomiting of Sabina in the room. It is not his case that he had seen all these bed sheets and bed covers lying here and there having alcohol on.

46. Sabina affirmed that there was a loud music in the room. This theory is tried to be built up with a view that even though she was screaming it cannot be heard from the outside. I have already referred to above the position of that room is on the first floor. The gallery was open. It was very easy for her to go into the gallery at least to dash towards the gallery and shout. But she had not done so. Admittedly the crew members were on the first floor. There was no restriction for people coming and going on the first floor. If she would have shouted or had thrown something on the door or the glass of the gallery then any body would have noticed it for coming to the help of Sabina. It is not that Sabina is a docile lady. I say so because she herself admits the position that when she and Mr. Sharma were seen in the that of his friend Lyngdoh came there. Then there was a quarrel and she beat her. There was a criminal case. Lyngdoh affirmed that Sabina said that time she is not 'Darpokh' like her husband. It is not denied by Sabina. As this is so her all actions that she was frightened, she was screaming that she was helpless appears to be a cooked up story.

47. The workman affirmed that he found her earrings in the toilet. He kept it on the table. On the next day Gail

returned it to Sabina. He was asked in the cross examination that when Sabina was vomiting there was no need for him touching the ear of Sabina. He answered in the affirmative. It is tried to argue that in the scuffle that earring fell down and it was handed over to Sabina on the next date. Sabina has not made out the case. It is common knowledge that the earrings which are available in the market now a days are of different varieties. They might be of hook type, a clip type or a screw type. There is nothing on the record to show that, that earring was of screw type and was impossible to be removed. While washing the face or after vomiting, cleaning the mouth and other parts that earring might have fall down. The theory of earring does not support the case of Sabina.

48. Sabina affirmed that she was screaming and calling her mother. At that time the workman told her that whether she thinks that her mother or anybody will come there to help her. She then started crying loudly. It can be seen that if that was the position, she had every opportunity on earlier occasions also to call anybody on the top of her voice. But she did not do so. It is her case that when she started crying loudly the workman told her to get lost from the room. She affirmed that she was in such stage of mind that it did not register her. She continued to cry. At that time the worker said to her whether she actually wants him to fuck her and she is creating drama. She continued to cry at that time, the worker actually pulled her to her legs and drove her out of the room. It really she wanted to go out of the room the words of the worker that go out of the room would have helped her to just leave the room immediately. But it appears that there was something different in her mind for which she did not want to leave the room. If really the worker had any intention which she attributes then there was no question of the worker asking her to leave the room. I therefore find that all her testimony to this respect is not correct version of the situation.

49. The matter does not rests there. Sabina admits the fact that while leaving the room the worker saw that she gets her slippers which were not traceable easily. He took it out from the bed or from the bed cover and then she took it. Not only the then he took Sabina to her room and left into the room. If really he would have prevented her from going out of the room he would not have helped her in such a fashion.

50. It appears that Sabina went to her room at about 11.00 p.m. She was to go to Deepika room for sleeping there. But she had not gone to Deepika room. She was aware that Deepika had returned back to the room from the dinner. Her natural conduct would have been to approach Deepika and inform her regarding the incident which took place in room No. 210 with her. But she had not done so. For the sake of argument even if it is said that Deepika was not in her room, then her superiors Rajput and Limboowalla were on the first floor itself. She would have contacted them by going into the room or by using phone by calling them into her room. There are other airhostess also. But she had not chosen to contact anybody of them. She slept. In normal course if such incident would have taken place nobody is likely to sleep in a claim way.

51. Sabina affirms that on the next day morning she approach Deepika and informed her regarding the earlier days incident. Then Gail was called there. She was also told regarding it. But it is pertinent to note that when Gail returned the earrings to her in the morning she did not inform her what had happened in the earlier night. She affirms that all of the three decided not to disclose these facts to anybody as she was informed that if this is made public her reputation is at stake. If that was decided then in fact there was no reason for Sabina to report the matter in the evening to Rajput who in his term recorded the same after getting written complaint from Sabina on 23rd in the flight report. There is no record what prompted her to do so. The detailed complaint which is given by Sabina

is on 26-12-89. There is no inward number of the office on it. It is tried to argue on behalf of the workman that it is a manipulated documents which was created at a very late stage. If really all these things would have taken place which are mentioned at Ex-M/7 there was no reason for Sabina to mention the same when she gave M-6. M-7 is not typed one. It is in her own handwriting. She would have done that job in the hotel itself. Therefore I find substance in the argument of the workman that whatever stated in the M-7 is an after-thought and a creation with the help of others. There is sufficient delay for giving the complaint. There is no proper explanation of the delay. It is not that Sabina is illiterate. It is not that she does not know how the action are to be taken when such a type of incident took place. I say so because there was a criminal case against her filed by Lyngdoh. Not only that, there were applications from her colleagues to the authorities concerning her behaviour with them.

60. It is tried to argue on behalf of the workman that when the earring was returned and when she realised that Joaquim came to know regarding her vomiting in the room and her unlady like behaviour there in the evening she thought it fit to make allegations against the worker. It is only to save her own skin. But infact the question of motive is not material in a domestic inquiry. I repeat that on preponderance of probabilities whether really the incident which is alleged had taken place or not is to be seen. The circumstance which I have narrated above, the conduct of Sabina, all these things clearly go to suggest that the allegations which are made against the workman are not probable. In other words the complaint which is made by Sabina is not true and correct. The management which levelled the charges on the workman on its basis obviously falls down. They cannot be said to be proved.

61. The Counsel for the management argued that the workman had lost confidence of the management. If it is held that the charges are not proved then the compensation may be granted to him he may not be reinstated in service. To substantiate this argument he placed reliance on S. K. Avasthy Vs. M. R. Bhope, Presiding Officer 1994 1 CLR 254. On the other hand Ms. Samant the Learned Advocate for the workman argued that when the charges are not proved the rule is reinstatement with full back wages and continuity. She further submitted that if the termination is set aside naturally the consequence is reinstatement along with full back wages.

62. Here in this case it is to be seen that if the worker is reinstated in service he will have to work as a pursuer and go along with the airhostess. The management had lost confidence on him.

There were serious allegations against him and there were Morchas and all other things due to this particular incident. Under such circumstances it is tried to submit that he is not fit person to be reinstated again in the service and disturb the function of the company.

63. In S. K. Avasthy's case Their Lordships observed mere putting forward the ground of loss of confidence is not enough to deny the reinstatement. There must be some base or tangible material or substantial evidence to indicate that the plea of the employer to deny reinstatement to the workman was bonafide. On the ratio given in this authority where it is to be seen that the plea which is tried to be made on behalf of the employer is genuine or not. I find merit in it. The contentions which I have already stated above namely if the workman is allowed to work with other airhostesses and the fact that a person having such a reputation is reemployed again who has lost the confidence of the management is bound to suffer the smooth functioning of the company. The circumstances clearly takes his case in exception. I therefore find that instead of reinstating him in service he is to be compensated by awarding three years wages. In the result I record my findings on the issues accordingly and pass the following order :

ORDER

The action of the management of Air India in dismissing Mahesh Lala Assistant Flight Purser w.e.f. 30-12-91 is not justified.

The management is directed to pay Mahesh Lala three years wages as compensation in lieu of reinstatement.

S. B. PANSE, Presiding Officer

नई दिल्ली, 25 फरवरी, 1999

का.आ. 812.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में बी.सी.सी.एल. के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद-2 के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-2-99 को प्राप्त हुआ था।

[सं. एल-20012/(217)/94-आई.आर.(सी-1)]
श्याम सुन्दर गुप्ता, डेस्क अधिकारी

New Delhi, the 25th February, 1999

S.O. 812.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal Dhanbad-2

as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of M/s. BCCL and their workman which was received by the Central Government on 23-2-99.

[No. L-20012/(217)/94-I.R. (C-1)]
S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT

Shri B.B. Chatterjee,
Presiding Officer.

In the matter of an Industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

REFERENCE NO. 78 OF 1995

PARTIES : Employers in relation to the management of Lodna Area No. 10 of M/s. B.C.C.L. and their workman.

APPEARANCES :

On behalf of the workmen : Shri S. Bose,
Treasurer, RCMS
Union, Dhanbad.

On behalf of the employers : Shri B. Joshi,
Advocate.
Industry : Coal.

Dated, Dhanbad, the 11th February 1999.

AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(217)/94-I.R.(Coal-I) dated, the Nil.

SCHEDULE

"Whether the demand of the union for regularisation of Shri Ishak Khan and 26 others (as per list annexed) by the management of Lodna Area of M/s. BCCL is justified? If so, to what benefit the workman are entitled and from which date?"

2. The concerned workman named Sri Ishak Khan and 26 others mentioned in the list annexed to the schedule of reference have made out a case to the effect that the management of Lodna Area employed them for the purpose of performing the jobs in the underground viz side-dressing of coal, carrying explosives, line packing, driving incline shaft, tyndal's job, stone cutting, making bore holes, loading of coal, cutting of coal at the incline etc. some of which are of prohibited category while the rest are of permanent and perennial in nature for which contractor's

labourers cannot be engaged under NCWA III and IV. The attendance of the workmen were registered by the company staff in statutory records of the company, the allotment of work was made by the management, the implement for their work was supplied by the management but with a view to deprive the workman from their wages and other benefits under NCWAs the management named certain middlemen as contractor for limited purpose of receiving fund from the management and to distribute the same amongst the workmen. Thus those middlemen were not at all contractor but a camouflage. The concerned workmen had to perform shift duties of regular workers under the supervision of the staff of the management and as such the demand of the sponsoring union for regularisation of the concerned workmen is bonafide and justified.

3. That an industrial dispute was raised before the ALC(C), Dhanbad in connection with the demand of the workmen in July, 1990 and after prolonged discussion the parties arrived at a settlement on 31-8-90 on the terms and conditions that (a) the case of Sri Ishak Khan and 26 others shall be referred to the Joint Committee of BCCL with one month from that date, (b) that the unanimous decision of the Joint Committee shall be binding upon the parties, (c) that the management and the union shall submit their implementation report to the RLC(C) Dhanbad and ALC(C), Dhanbad-3 within one month failing which it shall be presumed that the settlement in question have been implemented.

4. Accordingly a Joint Committee of Sri S.D. Pandey of BCCL and Sri S. Dasgupta of RCMS first constituted a small committee with two representatives of the management and one of the union to find out attendance of the concerned workmen and their working but the management failed to produce the relevant attendance register etc. from 1980 barring a few which, however, contained the names of a number of the concerned workmen and the ground for failure to produce those registers etc. was that those were damaged by white ants etc. resulting in failure of the small committee to assess the factual position and they submitted a report accordingly to the Joint Committee. The management also failed to produce requisite documents for which Sri S. Dasgupta of RCMS proposed to send the issue for voluntary arbitration to which also the management did not agree. The Joint Committee failed to arrive at an unanimous decision due to the adamant attitude of the management.

5. The sponsoring union then raised a fresh industrial dispute. A conciliation proceeding started and the same having ended in failure a report was submitted giving rise to the present reference.

6. Under the circumstances the workman side has prayed for an Award in their favour directing the employer to regularise the concerned workmen in the direct roll of the company with full back wages from 1980.

7. The management side also filed a W.S. challenging maintainability of the reference on the ground of vagueness and indefiniteness for not mentioning the name of colliery where the concerned workmen were allegedly serving and even the names of the contractors who recruited and deployed them against work order issued to such contractors. The name of the colliery is also wanting in the list noting therein the address of the workmen. The reference thus is liable to be rejected summarily. The management has also made out a case in the W.S. that most of the concerned workmen were job seekers who approaches the sponsoring union to make out a case claiming themselves to be the workmen under contractor in different collieries under Area No. X of M/s BCCL. The demand of the union in fact is not arising out of any industrial dispute as the name of the specific establishment in which the workmen allegedly served has not been mentioned. Each colliery is an independant establishment having its own Agent, Manager and other persons and each colliery engaged different contractor for different jobs on the strength of the work order issued to them. As the concerned persons have not come out with any specific pleadings it is to be presumed that they are stranger or some of them might be contractor's workmen at some point of time for certain jobs awarded to the contractors through work order. Further case of the management is that public-sector undertaking cannot employ any persons without issuing appointment letter and as the concerned workmen have failed to produce any appointment letter, I.D. Card or pay slip they are in fact not employees under the management at any point of time and they are in fact job seekers. That in the case of contractor's workmen certain approved forms indicating the engagement of such workmen through particular contractor under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 but in the instant reference of the workmen have not produced any such approved form. There was in fact never any employer-employee relationship between the workmen and the management directly or indirectly through contractor for which the sponsoring union has failed to produce any document showing service of any particular workmen either under the management or under any contractor. The reference is liable to be rejected on that ground also. It is also the case of the management that the Central Govt. is the only authority to decide with which type of job the contractor may be entrusted under the provisions of Contract Labour (Regulation and Abolition) Act, 1970 and the Tribunal cannot decide

the nature of the job as permanent or perennial. The sponsoring union has also failed to disclose the nature of job alleged to have performed by the concerned workmen. The claim of the union for regularisation of the concerned persons by bringing them in the regular roll of workers under the management is baseless for which the so-called concerned workmen are not entitled to any relief.

8. In addition the management have also submitted parawise comment in respect of the contents of different paras of the W.S. of the workmen side and in doing so the management abstained from making any comment in respect of para-1 as being matter of record. The management have denied the content of para-2 of the W.S. as correct about employment of the concerned persons in Lodna Area where no job is available for the contractor, except repair of the office building or white washing. The question of serving in the underground by the concerned persons in the underground since 1980 at Lodna Area cannot arise as there is no such underground at Lodna Area Office.

9. The contents of para-3 of the W.S. are incorrect and as such denied. The contention of the workman in their W.S. of serving in the job mentioned in the W.S. are not correct and the same are baseless. It is submitted on the side of the management that a contractor named Shalim was entrusted with certain job relating to the crossing of geological disturbance which included various types of work like dressing, blasting, packing, cutting etc. but such type of work also lasted for a limited period of two months or the like.

10. The say of the management in respect of the content of para 4 is that those are incorrect. The concerned persons were never engaged in any job of prohibitory category. The management have also denied the contents of 5 of the W.S. of the workman including appointment of any contractor for any prohibitory nature of job.

11. The contents of para 6 of the W.S. of the workmen the say of the management is that those are incorrect and as such denied. The concerned workmen were never allotted any work by the colliery management and they never worked under the control, supervision and guidance of colliery officials.

12. In respect of the contents of para 7 of the W.S. the say of the management that those are incorrect so far recording of the names of the workers in the company's record etc. are concerned.

13. The management have also denied the correctness etc. of the contents of para 8 to para 13 of the W.S. of the workmen while in respect of the contents of para 16 of the W.S. the say of the manage-

ment is that those are fully correct. The sponsoring union has taken advantage of the position in respect of non-production of the attendance register of the year 1980 with the knowledge that such registers are required to be preserved for one year only under the provisions of Mines Rules, 1955 for the purpose of making out a case. There was inordinate delay in raising the dispute for which the union can not claim any relief for the concerned workmen.

14. The management abstained from making any comments in respect of the contents of para 14, 15 and 17 to 19 of the W.S. being matters of record and ultimately have claimed that as the demand of the sponsoring union is devoid of any merit the concerned workmen are not entitled to any relief and an award to that effect should be passed.

15. The sponsoring union also filed a rejoinder as against the W.S. of the management giving parawise comment and in doing so the union has abstained from making any comment in respect of the contents of para 1 of the W.S. of the management on the ground that the same being reproduction of the order of reference and the schedule thereto.

16. In respect of the contents of para-2 of the W.S. the say of the union is that the statement made therein is vague for not mentioning the relevant provision of law under which the present reference is to be treated as not maintainable. In respect of the contents of para-3 of the W.S. the say of the union is that the same is misconceived as the present forum is not the proper forum to question the validity of the reference. It is well within the knowledge of the management that the Tribunal cannot go beyond the reference. In respect of the contents of para 4 of the W.S. the say of the union is that those are with a view to confuse the issue and malafide as it has been mentioned in the W.S. of the workman that they were engaged in different units of the management of Lodna Area of BCCL. The workers were employed by the management and the story of middlemen as contractor has been introduced to deprive the workmen from wages under NCWAs.

17. The contents of para 5 of W.S. according to the union are malafide. The failure of the workmen to mention the names of the collieries was due to the fact that they served in different collieries of Lodna Area.

18. The statements made in para 6 of the W.S. are false, malafide and misconceived and as such denied. The services of the concerned workmen in different collieries of Lodna Area would be evident from the Attendance Registers of the collieries in respect of the underground workers. The union has denied the correctness of the statements made in

para 7 of the W.S. and these are made with the same motive of depriving the workmen from the benefit of NCWA.

19. The statement made in para 8 of W.S. are false and malafide as it is to be determined first whether the workers worked in different collieries of Lodna Area which the union will prove with the help of documentary evidence.

20. The statement made in para 9 of W.S. also are malafide and misconceived. The question of employers-employee relationship is to be considered on the basis of the decision of the Hon'ble Supreme Court.

21. The union abstained from making any comments in respect of the contents of para 10 of the W.S. being matter of law and anything contrary to it is denied.

22. The contents of para 11 of the W.S. according to the union are malafide and baseless. The nature of jobs performed by the concerned workmen as stated in their W.S. will be proved by documentary evidence i.e. during hearing of the reference. The union has also denied the statement of the management made in para-12 of W.S. by describing the same as false, baseless and malafide and ultimately has prayed for treating the rejoinder as part of the W.S. filed for to workers.

23. The point for decision is whether Ishak Khan and 26 others mentioned in the list annexed to the schedule of the reference are entitled to an order for regularisation by the management of Lodna Area of M/s. BCCL.

DECISIONS AND REASONS

24. For the purpose of deciding the above points it is necessary to see if there was at all any employer employee relationship between the concerned workman and the management of BCCL at any point of time either directly or through so-called intermediaries i.e. the contractor and for the purpose of proving the same the workman side has adduced oral evidence by examining as many as three witnesses and also proved certain documents admitted in evidence as documentary evidence. On the other hand the management has also adduced oral evidence by examining two witnesses on their side with a view to show that in fact there never existed any employer employee relationship between the management and the concerned workmen at any point of time. In addition the management has also produced photo copy of certain attendance. Out of three witnesses examined on the side of the workman WW-1 is Elias Ansari who is one of the concerned workman. His claim is that all the concerned workmen number 27 used to work jointly in a gang in the underground of Lodna Colliery. The nature of job which the

concerned workmen used to perform in the underground of the colliery was identical to those of the permanent workers of the management. They started so working from 1987 and because of identical nature of job the concerned workmen prayed before the management for regularisation of their services and an industrial dispute was raised before the A.L.C. (C) and in course of conciliation proceeding before the ALC(C) on consent of the parties the matter was referred to the Joint Committee of BCCL to the union for arriving at a settlement being agreed by both the parties. But unfortunately the Joint Committee could not arrive at any decision for which a failure report was submitted to the Ministry giving rise to the present reference. This is the sum and substance of the evidence of WW-1. During cross-examination so many questions were put to this witness about the issuance of appointment letter I.D. Card, pay slip etc. to the concerned workman and the witness has stated that in fact they were not supplied with any such document like appointment letter, I.D. card pay slip but at the same it was elicited during his cross-examination that the contractor who was in fact the middleman for limited purpose of receiving fund from the management and to disburse the same to the concerned workman was one Karim Mian. Ram Bilas was his Munshi who used to disclose the description of the job required to be performed by the concerned workmen in the underground.

25. The next witness is Nishad Khan. He is also one of the concerned workman like that of WW-1. He has also stated in course of his examination that he as well as other used to work in the underground by performing the duties of stone cutting, drill hole, carrying explosive from the surface to the underground etc. and that the Mining Sirdar and the Overman of the company used to issue instruction to them for performing their jobs. But although they were so working under the instruction etc. of the Overman and Mining Sirdar of the management they used to get wages @ Rs. 25 to 30/- per day. Almost similar questions were put to this witness like that of WW-1 like the issuance of appointment letter, I.D. card etc. This witness has disclosed the name of Karim Mian as contractor who engaged them for working in the underground and who used to pay them according to the attendance maintained by the said contractor. It was suggested to this witness during cross-examination that all the 27 concerned workmen were in fact were the workers under the contractor named Karim Mia and that although they used to carry explosive from the surface to the underground they never received any authorisation for the purpose. The witness has denied the suggestion of performing the duties in the underground by the concerned workmen since 1980 as false. Lastly WW-3 is Shri G. C. Ghose. His claim

is that he dealt with the matter in respect of 27 workmen when the dispute was under consideration before the ALC(C), Dhanbad. According to him before the ALC(C) there was a settlement between the sponsoring union and the management for referring the matter to the Joint Committee and the same was in writing duly signed by the representatives of both the parties on 31-8-90. The witness has proved that settlement. The witness has also stated about the facts of such settlement by way of reference to the Joint Committee and because of the failure of the Joint Committee to come to any unanimous decision acceptable both to the workmen and to the management although according to him the management never refused to absorb the concerned workman when the matter was pending before the ALC(C), Dhanbad and almost similar is the trend of cross-examination of this witness about issuance of I.D. Card, pay slips etc. and non-receipt of the same by none of the concerned workmen.

26. On the other hand the witness examined on the side of the management is Shri A.D. Tewary who has posed himself as MW-1. He is working in Bagdigi colliery since 1992. Previously he was Asstt. Manager there and there after he was appointed as Safety Officer from 1996. It is his evidence that during his tenure as Assistant Manager contractors were appointed for urgent work like white washing, ventilation stopping etc. which are of the nature of Civil Construction work and that no contractor was appointed on any occasion during his tenure for boring, coal cutting, side dressing etc. which relate to production for which according to the witness the management had/have their permanent workmen. During cross-examination the witness admitted that he all along worked in the underground and never had any occasion to work on the surface and the duty performed by the witness in the underground was also in the general shift but according to him the production was going on at Bagdigi Colliery even during his tenure there in three shifts having different working hours. The witness has also admitted that Lodna Colliery adjacent to Bagdigi Colliery was running during his tenure and there was separate officer in that colliery. During subsequent stage of his cross-examination the witness had to admit that he is aware about the claim of the concerned workmen in this reference at the same time he has expressed his ignorance about any discussion in the BCCL with the Joint Committee in connection with the affairs of the concerned workmen of this reference and during concluding part he had to admit that in fact ventilation, isolation, stopping etc. are work of the nature of safety and he is not aware if the concerned workmen were serving at Lodna Colliery by performing similar job. The evidence of this witness practically is of no help to the management for

the purpose of proving that there was never any employer-employee relationship between the management and the concerned workmen either directly or through intermediaries i.e. the contractor. The next witness is S.C. Pandaya. His evidence is that he has been serving at Lodna colliery since 1987 and at present holding the post of Assistant Manager. His evidence is that no contractor is appointed for prohibited nature of job like coal cutting stone cutting, side dressing etc. although the contractors are appointed for doing underground Civil work like ventilation, isolation stopping and sometime for white washing, and that one Karim Mian was one of the contractor of Lodna Area who did work of construction in the underground on as and when required basis. During cross-examination the witness has stated that the Pit Incharge used to report for doing construction work at underground for which contractors are appointed. According to him the contractors are not the Mining Expert and that the shift Incharge shows the places to them where a particular contractor would do the Civil Construction work in the underground. Sometimes the Overman and the Mining Sirdar also used to give instruction to such contractor for their work in the underground. During subsequent stage of cross-examination the witness has expressed his ignorance if the case of the concerned workmen was dealt with by the Joint Committee or not. But in the concluding part the witness had to admit that the concerned workmen used to perform duties although according to him by doing Civil work in the underground and that too on as and when required basis. These are the two witnesses examined on the side of the management. The oral evidence adduced by the respective parties if given careful consideration will show that in fact the same are on extreme opposite poles. The documentary evidence produced by the parties if looked into, it will show that in fact there was no dispute so far raising of an industrial dispute for regularisation of the concerned workmen is concerned before the ALC(C), Dhanbad. There is also no dispute about the deliberation of the parties for referring the matter to the Joint Committee. Similarly there is also no dispute that such Joint Committee which was dealing with the affairs of the concerned workmen upon understanding with the union's recommendation of such Joint Committee would be binding upon the parties and such decision has to be taken within a month from the date of reference. Constitution of small committee is another fact over which there is no dispute. Then again it has not been disputed that the management failed to produce the relevant registers for the purpose of showing the attendance of the concerned workmen ordered by the small committee as well as the Joint Committee for which once it was desired to refer the matter to the arbitration to which, however, the management did not agree as a result

of which the committee failed to arrive at any unanimous decision giving rise to another industrial dispute raised by the union for the concerned workman and attempt for conciliation in the subsequent proceeding before the ALC(C) Dhanbad having ended in failure and a report to that effect having submitted to the Ministry the present reference has been registered. Learned Advocate on the side of the management submitted much about the vagueness and indefiniteness of the reference for omission of the concerned workmen or the sponsoring union to mention the name of the colliery where the concerned workmen were performing prohibitory or permanent nature of job continuously, and according to the learned Advocate as such reference suffers from indefiniteness and vagueness and the same should be treated as not at all maintainable for which the concerned workmen are not entitled to any relief and an Award to that effect should be passed in favour of the management. It is true that in the list of annexure to the schedule of reference does not disclose the name of the colliery where the concerned workmen were serving and the nature of job they were performing but the Ministry even on consideration of that fact arrived at a decision about the existence of an industrial dispute for which in view of the power conferred upon the Govt. of India, Ministry of Labour has referred the present dispute to this Tribunal for adjudication. The question of maintainability under such circumstances, to my mind should not be the subject of adjudication. I am therefore not inclined to entertain the point raised on the side of the management and to arrive at a decision by opening the discussion about the maintainability of the present reference. As I have already stated that since it has not been disputed that during the pendency of the industrial dispute before the ALC(C), Dhanbad the matter relating to the affairs of the concerned workmen was referred to the Joint Committee on consent of the parties and as the Joint Committee failed to take any unanimous decision because of the failure on the part of the management to produce relevant documents an adverse inference should be drawn against the management. It is clear from the fact that when the management gave its consent for reference of the affairs of the concerned workmen to the Joint Committee it can be taken for granted that the management did not intend to dispute so far the performance of prohibitory and permanent

nature of job by the concerned workmen in the collieries are concerned although their names do not appear in the regular roll of the workers of the management and although they were not paid directly against pay slip but through intermediaries like contractors. The written argument submitted on the side of the workmen that middlemen or the intermediaries like the contractors were introduced only with a view to deprive the concerned workmen of their services according to NCWA by obtaining their performance against prohibitory and permanent nature of job at lesser cost appears to me to be probable and the possibility of introduction of such middlemen by the management to get the job of prohibitory and permanent in nature done at lower cost by paying the workers through a contractor cannot altogether to be ruled out. Since the management has failed to produce the documents before the small committee and the Joint Committee. I am inclined to draw an adverse inference against the management and to arrive at conclusion to the effect that the concerned workmen performed duties like those of regular workers in the underground continuously for years together. They are, therefore for all practical purposes were employees of the management for which it can be safely said that in fact there was employer and employee relationship between the concerned workmen and the management of this reference. That being the position and in view of my above discussion the concerned workmen Ishak Khan and 26 others as mentioned in the list annexed to the schedule of reference are certainly entitled to an order for regularisation by the management of Lodna Area of M/s. BCCL. But at the same time since the evidence on record are not sufficient to show exact date from which they started serving in the underground of the different collieries of Lodna Area as well as exact date on and from which they were stopped from working by the management of different collieries of that area they may not be entitled to any back wages. The demand of the union for regularisation of the concerned workmen Ishak Khan and 27 Others by the management of Lodna Area of M/s. BCCL is therefore quite justified and they are entitled to an order for such regularisation within one month from the date of publication of this award in the Gazette of India. The above point is thus decided and an Award is rendered accordingly.

Reference No. 78 of 1995

ANNEXURE

Sl. No.	Name of Person	Father's name	Full address	permanent/present.
(1)	(2)	(3)		(4)
1.	Isaque Khan	Late Munir Khan	Lodna Islampur, P.O., Lodna P.S. Tisra (Dhanbad)	
2.	Iliyas Ansari	Shri Haulin Ansari	Vill : Khaddi, P.O. Sikandara P.S. Sihandra, Dist. Munghyr (Bihar) Present : P.O. & P.S. Lodna OP Distt. Dhanbad (Bihar)	
3.	Ishak Mia	Late Hasrat Mia	Vill. Chotinahauli P.O. & P.S. Ranigunj, Dist. Pratapgarh (UP) Present : P.O. & P.S. Lodna, Dhanbad	
4.	Shankar Rajwar	Late Khedan Rajwar	Vill : Haraottour, P.S. Para, P.O. Udaipur, Dist. Purulia Present : No. 3 Baniahir, P.O. & P.S. Jharia (Dhanbad)	
5.	Kalim Mia	Anwar Mia	Vill : Sindhiyatand, P.O. Baliapur, Dist. Dhanbad	
6.	Sailender Bouri	Amulya Bouri	Vill : Gulmara P.O. Pargha, P.S. Baliapur (Dhanbad)	
7.	Narad Bouri	Amulya Bouri	—do—	
8.	Basdeo Bouri	Hai Bouri	—do—	
9.	Islam Ansari	Muslim Ansari	Vill : Khaddi, P.O. & P.S. Sikandra (Munghyr) Present : Lodna Purani Basar, P.O. & P.S. Lodna OP Dist. Dhanbad (Bihar)	
10.	Haradhan Bouri	Hari Bouri	Vill : Gulmara, P.O. Pargha, P.S. Baliapur (Dhanbad)	
11.	Shankar Rawat	Muni Rawat	Vill : Rawanta, P.O. Gopalpur Dist. Munghyr. Present : Lodna Linc Par P.O. & P.S. Lodna OP Dhanbad	
12.	Gouranga Banerjee	Harimohan Banerjee	Vill : Ram Nagar, P.O. Badipur, P.S. Kangla, Dist. Burdwan (WB) Present : Lodna Shramik Kalyan, P.S. Tisra, P.O. Lodna, Dhanbad	
13.	Rahman Khan	Late Munir Khan	Lodna Islampur, P.O. Lodna P.S. Tisra, Dhanbad	
14.	Mahadeo Nonka	Moti Nomia	Madhuban Basar, P.O. Madhuban P.S. Tisra (Dhanbad)	
15.	Ganesh Singh	Late Godhan Singh	Vill. Nania, P.O. Salasala P.S. Nawanagar (Bhojpur) Area Present : Khilan Bhowra Balagadda Lodna, P.O./P.S. Lodna (Dhanbad)	
16.	Qaiuni Mia	Jabi Hussain Mia	P.O. Raway, P.S. Sikandra (Munghyr) Present : Lodna Islampur P.O./P.S. Lodna (Dhanbad)	

(1)	(2)	(3)	(4)
17. Sinath Manjhi	Akhoya Manjhi	Lukudih Chandatiri, P.O. Konapara, P.S. Pancha Dist. Purulia (WB) Present : Bhuli Bhawara Manjhi Potti Balugada, PO/PS Lodna (Dhanbad)	
18. Kailash Bouri	Beluram Bouri	Vill : Gulmara, P.O. Pargha, P.S. Baliapur (Dhanbad) Present : —do—	
19. Shaukat Ansari	—	Vill : Singhiyatand, P.O. & P.S. Baliapur (Dhanbad)	
20. Chhottu Gope	Haru Gope	Vill : & P.O. Moko, P.S. Baliapur, Dhanbad	
21. Dalip Nonia	—	Challis Dhowra Lodna P.O. Lodna, P.S. Tisra (Dhanbad)	
22. Lakhu Mahato	—	Singhiyatand, P.O. & P.S. Baliapur (Dhanbad))	
23. Majahar Ansari	—	Burhiya Khaad P.O. & P.S. Giridih Dist. Giridih	
24. Balram Gope	—	Vill : Moko, P.O. Moko, P.S. Baliapur (Dhanbad)	
25. Shri Rajendra Yadav	Shri Diplal Yadav	Vill : Gous Gung, P.S. & P.O. Paligung, Dist. Patna, Present : Lodna ND-6 P.S. & P.O. Lodna, Dist. Dhanbad	
26. Shri Chando Rajak	Shri Dilkeshwar Rajam	Vill : Sidhiwoa, P.O. Gibra, P.S. Lachmipur, Dist. Munghyr, Present : North Tisra Golukdih, P.O. Madhuban, P.S. Tisra, Dist. Dhanbad	
27. Shri Baleshwar Rajak	Shri Kaishaw Rajak	Vill : Darha, P.O. Darha, P.S. Jamui, Dist. Munghyr Present : Tilaijoru Basti, P.S. Tisra, P.O. Madhuban, Dist. Dhanbad	

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 25 फरवरी, 1999

New Delhi, the 25th February, 1999

का. आ. 813.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार में ईस्टर्न कोलफील्ड लिमि. के प्रबन्धन के संबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धमबाद-I के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 23-2-99 को प्राप्त हुआ था।

S.O. 813.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad-I as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Eastern Coalfield Ltd. and their workman, which was received by the Central Government on 23-2-1999.

[सं. एल-20012/339/91-आर्.आर. (सी-1)]

सयाम्. सुन्दर गुप्ता, डेस्क अधिकारी

[No. L-20012/339/91-IR (C-D)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

[सं. एल-30012/41/92-आई.आर. (विविध)]
[सं. एल-30012/42/92-आई.आर. (विविध)]
[सं. एल-30012/38/92-आई.आर. (विविध)]

एस.एस. गुप्ता, डेस्क अधिकारी

In the matter of a reference under Sections 10(1)(d) (2-A) of the Industrial Disputes Act, 1947

Reference No. 64 of 1993

New Delhi, the 26th February, 1999

PARTIES :

Employers in relation to the management of Badjan Colliery of M/s. Eastern Coalfields Ltd., P.O. Nirsa, Distt. Dhanbad.

AND

Their Workmen.

PRESENT :

Shri B. B. Chatterjee, Presiding Officer.

APPEARANCES :

On behalf of the Employers—None.

On behalf of the Workmen—Smt. Rani Manjhian, Workman concerned.

STATE : Bihar

INDUSTRY : Coal

Dated, the 11th February, 1999

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) and sub-section (2-A) of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/339/91-IR (Coal-I) dated 10-2-1993 and corrigendum of even no. dated 17-3-1993 :

"Whether the superannuation of Smt. Rani Manjhian with effect from 25-8-1989 based on the age assessed by the age determination Committee is justified? If not, to what relief the workman concerned is entitled to?"

2. The concerned woman workman Smt. Rani Manjhian appears and presses her petition dated 14-12-1998 sent by post to this Tribunal stating that she is no longer interested to contest this dispute further.

3. On her prayer Smt. Rani Manjhian has been re-examined as WW-1 on 11-2-1999 and discharged. In her examination she submitted her original Identity Card issued by the management which has been marked as Ext. W-3.

4. Since Smt. Manjhian, the concerned workman herself has stated on oath that she is not at all interested to proceed further with the present dispute, there is no alternative but to disposed of the reference case on 'No dispute' basis. Accordingly this reference case is disposed treating non-existence of any dispute between the parties at present and No Dispute award is being rendered.

B. B. CHATTERJEE, Presiding Officer

नई दिल्ली, 26 फरवरी, 1999

का. आ. 814.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कॉर्पोरेशन लि. प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, सं. 1 मुम्बई के पञ्चाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-2-99 को प्राप्त हुआ था।

[सं. एल-30012/36/92-आई.आर. (विविध)]
[सं. एल-30012/37/92-आई.आर. (विविध)]
[सं. एल-30012/39/92-आई.आर. (विविध)]
[सं. एल-30012/40/92-आई.आर. (विविध)]

S.O. 814.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 1, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Hindustan Petroleum Corporation Ltd., and their workman, which was received by the Central Government on 26-2-1999.

[No. L-30012/36/92-IR (Misc.)]
[No. L-30012/37/92-IR (Misc.)]
[No. L-30012/39/92-IR (Misc.)]
[No. L-30012/40/92-IR (Misc.)]
[No. L-30012/41/92-IR (Misc.)]
[No. L-30012/42/92-IR (Misc.)]
[No. L-30012/38/92-IR (Misc.)]

S. S. GUPTA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, MUMBAI

PRESENT :

Shri Justice C. V. Govardhan, Presiding Officer.

Reference No. CGIT-69 of 1993

(Mr. Habib B Khan, Gate Checker)

Reference No. CGIT-70 of 1993

(Mr. Jalindher Ramchandra Waghmare) (Filler)

Reference No. CGIT-71 of 1993

Mr. Ramesh Deoram Nibhawane, Heavy Vehicle Driver
Reference No. CGIT-72 of 1993(Mr. Shivram Bhima Sangle, General Workman)
Reference No. CGIT-73 of 1993(Mr. Raghunath Tukaram Karande, Watchman)
Reference No. CGIT-74 of 1993(Mr. Pandit Sudam Ahire, Heavy Vehicle Driver)
Reference No. CGIT-81 of 1993

(Mr. Madhukar Kashinath Pagare, Heavy Vehicle Driver)

PARTIES :

Employers in relation to the management of Hindustan Petroleum Corporation Ltd.,

AND

Their Workmen.

APPEARANCES :

For the Management—Shri Talasania, Advocate.

For the Workmen—Shri Abhay Kulkarni, Advocate.

STATE : Maharashtra

Mumbai, the 16th day of February, 1999

AWARD

1. The Central Government has referred the following disputes by its orders dated 8/12 October 1993 for adjudication by this Tribunal.

(a) "Whether the action of the management of H.P.C.I. Bombay in terminating the services of Mr. Habib B. Khan, Gate Checker with effect from 27th December, 1991 is legal and justified? If not, to what relief the workman is entitled to?"

(b) "Whether the action of the management of H.P.C.I. Bombay in terminating the services of Mr. Jalinder Ramachandra Waghmare, Filler with effect from

27th December, 1991 is legal and justified? If not, what relief the workman is entitled to?"

- (c) "Whether the action of the management of H.P.C.L. Bombay in terminating the services of Mr. Ramesh Deorani Nirbhawane, Heavy Vehicle Driver, with effect from 27th December, 1991 is legal and justified? If not, what relief the workman is entitled to?"
- (d) "Whether the action of the management of H.P.C.L. Bombay in terminating the services of Mr. Shivram Bhima Sangle, General Workman with effect from 27th December, 1991 is legal and justified? If not, what relief the workman is entitled to?"
- (e) "Whether the action of the management of H.P.C.L. Bombay in terminating the services of Mr. Raghunath Tukaram Karande, Watchman is legal and justified? If not, what relief the workman is entitled to?"
- (f) "Whether the action of the management of H.P.C.L. in terminating the services of Mr. Pandit Sudam Ahire, Heavy Vehicle Driver w.e.f. 27th December, 1991 is legal and justified? If not, what relief the workman is entitled to?"
- (g) "Whether the action of the management of Hindustan Petroleum Corporation Ltd., in terminating the services of Mr. Madhukar Kashinath Pagare, Heavy Vehicle Driver is legal and justified? If not, what relief the workman is entitled to?"

2. Since the dispute between the management of H.P.C.L., and its various employees referred in the respective references is the same and the averments in the claim statements of the workers and the written statement of the management is the same except for the designation of the workers and since the arguments of both sides is the same in all the above seven references, a common award is passed.

3. The averments in the claim statements of the workers

- (i) Mr. Habib B. Khan, Gate Checker.
- (ii) Mr. Jalindher Ramchandra Waghmare, Filler.
- (iii) Mr. Ramesh, Deorani Nirbhawane, Heavy Vehicle Driver.
- (iv) Mr. Shivram Bhima Sangle, General workman.
- (v) Mr. Raghunath Tukaram Karande, Watchman.
- (vi) Mr. Pandit Sudam Ahire Heavy Vehicle Driver.
- (vii) Mr. Madhukar Kashinath Pagare, Heavy Vehicle Driver.

is briefly as follows :

The workmen were employed in the Wadala Terminal-I of the Employer in their respective posts stated above. Terminal-I of the employer operates on three shifts a day. The operation of the filling of Tank trucks with the products is confined to the first and second shifts only. The first shift is from 6.30 a.m. to 2.30 p.m., second shift is from 2.30 p.m. to 10.30 p.m. the third shift is between 10.30 p.m. to 6.30 a.m. the next day. There is no filling operation of the product into the tank trucks for onward carriage to the delivery points on the third shift. The workmen after concluding his shift on 29-7-86 left Wadala-I Terminal; but he was arrested by the police for alleged offence of pilferage of the employer's products from Wadala Terminal No. 1. A case bearing No. 174/P of 1987 against the workmen alongwith others was filed before the Metropolitan Magistrate 5th Court, Dadar, under Sections 380, 381 read with Section 34 of the I.P.C. When the workman reported for duty he was called to proceed to the registered office of the employer at Churchgate. The Officer of the employer company present there informed the workman that some of the workmen present in Wadala Terminal had committed the act of pilferage and theft of company property and had implicated him in the said offence. They have also informed him that even though the workman was not present at the time of commissioning of the offence since his name has been brought in by his co-workmen, it will be in his interest

to give a statement. They have assured to exonerate him of the act of misconduct, provided he gives a statement as drawn by them. The workman complied with the requisition made by the Officers in good faith since he was an illiterate person. The workman was also assured that if he follows the instruction given to him, the police complaint would be withdrawn. In the above circumstances the workman tendered a letter to the Employer in the manner it was dictated to him by the Officer's. The Employer suspended the workman. On enquiry he was informed that he need not have any apprehension about the order of suspension and there would not be any adverse effect on him provided he acted as asked by them. The workman was served with a charge sheet that the workman has committed the following misconduct :

- (i) Theft, fraud or dishonesty in connection with Employers' business or property ;
- (ii) Act subversive of discipline or good behaviour in the premises of the Terminal.

The gravamen of the charge sheet was that the workman entered the Wadala Terminal-I on 29-7-86/30/86 after completion of his duty, opened the pump valve of tanker No. 82 filled the tank truck No. MMK-1557 alongwith other workmen and pilfered the company's material worth more than a lakh of rupees. The workman was called upon to submit his explanation within 72 hours. The workman submitted his written explanation denying the charges. The employer intimated the workman that the explanation given by him was not satisfactory, that an enquiry into the articles of charge against him would be held by Shri S. C. Mohbe and the details of the enquiry would be communicated to him. The workman informed the General Manager of the employer that the charges against him were directly and substantially in issue in the Criminal proceedings and that grave prejudice would be caused to him if the departmental enquiry is conducted simultaneously with the criminal case and therefore, the departmental enquiry had to be stayed. He also wanted the service of a legal practitioner to defend him in the departmental enquiry. The above requests of the worker were rejected by the General Manager. The enquiry commenced on 24-3-87. The worker was assisted by Shri Vishwas Kulkarni, Shri Bhagwan Kulkarni and Shri K. N. Krishnan. The employer examined in all eight witnesses. The evidence of the first witness is vague and there is no light on the controversy of the alleged pilferage of the company property and the involvement of the workmen in the alleged misconduct. The evidence in the departmental enquiry was closed on 16-1-90. The Presiding Officer and the defence representative have filed their respective summing up reports. The learned Additional Chief Metropolitan Magistrate by its judgment dated 31-5-90 acquitted all the workmen who were accused in the criminal case, rejecting the evidence of each and every prosecution witness. The disciplinary authority issued a show cause notice dated 4-7-91 stating that on going through the Enquiry Officer's report, he found that the enquiry was fair and proper and he concurred with the findings of the Enquiry Officer holding the workman guilty of the charges levelled against him in the said show cause notice. The disciplinary authority has also stated that the charges levelled against the workmen being grievous in nature wanted the penalty of dismissal and called upon the workmen to state as to why the penalty of dismissal should not be imposed on them. The workmen sent a suitable reply to the show cause notice. The disciplinary authority failed to furnish copy of the Enquiry Officer's findings alongwith the show cause notice. It is only after the workman called upon the disciplinary authority to furnish a copy of the enquiry report, the disciplinary authority furnished the Enquiry Officer's report. By his letter dated 27-12-90 the Chief General Manager being the disciplinary authority informed the workmen that after considering the charge sheet, the subsequent enquiry conducted in the show cause notice and the reply of the workman, he found that a fair and proper enquiry has been conducted in line with the principle of natural justice and that he concurs with the findings of the Enquiry Officer and the workmen stood dismissed from the employment of the employer with immediate effect. The workmen therefore, raised an industrial dispute. The conciliation proceedings ended in failure and the reference has been made. The departmental enquiry conducted against the workmen were illegal, mala fide and unsustainable. It was an empty formality and stage managed. The workmen, therefore, prays that the tribunal may hold that the enquiry held against the work-

man is improper, invalid and untenable and to hold that the findings of the Enquiry Officer are perverse and to set aside the same and direct the employer to reinstate the workman with effect from 27-12-91 with full back wages and continuity of service.

4. The management in their written statement contends as follows :

It was noticed by the Company that there are regular pilferages from Wadala-I installation of the company. The Vigilance department came to know that on 29th July, 1986 there would be an attempt to pilfer petrol from Wadala-I installation. Therefore, on the night of 29-7-86 Mr. R. R. Kulkarni, Vigilance Officer, Mr. R. D. Gaur, Vigilance Assistant, Mr. Savant and Mr. Tardalkar were on duty on Wadala-I. At about 1.30 a.m. on the night of 29/30 July, it was noticed that two persons entered into the installation premises through the small gate. Three more persons entered from the side gate at about 2.00 a.m. At about 2.10 a.m. the barricade of the main gate was lifted up; at 2.30 a.m. the main gate of the installation was opened and a tanker truck entered the installation. Mr. Kulkarni and Mr. Gaud rushed to Wadala Police station, informed the police and came back with the police in the companies car to Wadala-I installation, and they divided into two groups. At around 3.30 a.m. the truck which entered earlier came out. It was chased by the Vigilance staff and stopped near Colgate Palmolive factory. The truck bearing registration No. MMK 1557 was driven by Shri Raj Bahadur Yadav. It pertained to one Mr. Mahadeo Yadav. The Driver produced a document ICCR dated 29-7-86 and informed them that the petrol is being carried to Sakinaka Petrol pump at Sakinaka Andheri. The tanker was brought back to Wadala installation. The second group of Vigilance Officers and police who entered Wadala-I installation apprehended the employees of the company namely Mr. Kennedy, Chougule, Shinde, Koli, Ahire, Sangle, Tormale, Pagare, Thakur and Karanada. It was reported that two employees of the company jumped over the fence of the installation. The statement of the employees were recorded by the Vigilance staff. A police complaint was registered. From the statement recorded, the conspiracy among the workers to pilfer the petrol from Wadala-I installation was revealed. From the statement, it is also gathered that one of the two who escaped on that night was a workman by name Mr. Habib Khan. The management charge sheeted the workmen and called upon the workmen to submit an explanation. Since the explanation given by them was not satisfactory an enquiry was ordered. The enquiry was conducted by Mr. Mohbe in a proper and fair manner. Eight witnesses were examined on behalf of the company. The workmen was granted adjournment and he was also permitted to have the assistance of President and Secretary of the Union. The enquiry was conducted fairly. The Enquiry Officer, considering the evidence placed before him came to the conclusion that the charges against the workers were established. A report was submitted to the disciplinary authority. The disciplinary authority forwarded the report to the workmen with a show cause notice. The workmen gave a reply. The disciplinary authority applied his mind to the report of the Enquiry Officer as well as the enquiry proceeding. The reply of the workmen to the show cause notice and carefully considered the entire material and concurred with the findings of the Enquiry Officer. The disciplinary authority has also held that having regard to the serious nature of the charges the workmen deserves the punishment of dismissal. The past record of the workmen were also considered. The disciplinary authority has ultimately passed the order of dismissal on 27th December 1991. The workmen has raised the dispute challenging the order of dismissal passed against them. It is not correct to say that the departmental enquiry was not in accordance with

the Statutory Provisions of the Model Standing Orders. It is also not correct to say that the enquiry was not conducted fairly and properly in accordance with the principle of natural justice. It is incorrect to say that the findings of the Enquiry Officer are perverse. If the Tribunal comes to the conclusion that the enquiry held against the workmen is not just, and fair and findings of the Enquiry Officer are perverse, an opportunity may be given to the management to prove the charges against them. The workmen having been found guilty of the charges levelled against them, are not entitled to any relief and the reference may be rejected.

5. The Point for consideration in all these references is whether the order of dismissal passed by the disciplinary authority against the workmen is perverse and if not, to what relief the workmen are entitled to?

The Point:—In this batch of references the claim of the workmen who are employees under the H.P.C.L. in various capacities as detailed supra is that the management has framed charges of theft of petrol pertaining to the employer from Wadala-I installation and committed acts subversive of discipline in the premises of the terminal, held an enquiry for the same and dismissed the employees illegally. The gist of the allegations made against the workmen is that on the night of 29/30th July, 1986 they entered the Terminal unauthorisedly during the third shift and committed theft of petroleum product worth more than a lakh of rupees. The case of the workmen is that the entire allegation is false and on the criminal complaint given by the authorities, the Criminal Court found them not guilty of the same charges and acquitted them and in respect of it, on the basis of Enquiry Officer's report which was not supplied to the employee the disciplinary authority has dismissed the employees and it is not legal and therefore, they are entitled to orders of reinstatement with back wages and other benefits. It is also the case of the employees' that Model Standing Orders are applicable to them who are employees of H.P.C.L. and that holding a departmental enquiry, framing of a charge and enquiring them and dismissing them is not proper since as per M.S.O. 14(4)(d) if the workman is found not guilty of any of the charges framed against him in a criminal proceeding, he should have been reinstated without any departmental enquiry on the same charges and conducting a departmental enquiry and finding them guilty and dismissing them from their employment is not proper.

6. The management contends that the workmen who were employees of the management having committed theft of petrol worth more than one lakh rupees on the night of 29/30th July, 1986, holding an enquiry in proper manner, adopting the principles of natural justice and imposing them penalty in pursuance of the Enquiry Officer's finding to the effect that the charges have been proved cannot be said to be an illegal one. It is also contended by the management that the company has Statutory Standing Orders and therefore, the employees cannot contend that Model Standing Orders are applicable and therefore, under Model Standing Order 14(4)(d) no enquiry should have been held against them and no punishment should have been imposed on them. Even at the outset I think it is expedient to dispose this contention of the workmen to the effect that no enquiry should be held against them as not tenable. It is not disputed that the company has their own certified Standing Orders and it was in vogue at the time of the enquiry held against this Workman. In the decision reported in 1991 II CLR 176 between May and Bakar Ltd. V. Shri Kishore Jaikishandav and Ors., it is held that it is clear from the provisions of the Industrial Employment Standing Orders Act, 1946 that the Model Standing Orders are applicable only until such time as amendments thereto if proposed and certified and once amendment has been certified, the certified standing orders operate. In view of the fact that the company has certified standing orders, the contention of the workmen that as per Model Standing Orders 14(4)(d) an enquiry was not to be held against them after the acquittal by the Criminal Court and they ought not to have been dismissed in view of the finding of the Enquiry Officer is therefore, not sustainable.

7. The workmen connected in this references have been examined before this tribunal in their respective references. The workman Mr. Habib Khan in I.D. 69 of 1993, Ramesh

D. Nirbhawane in I.D. 71 of 1993, Shivram Bhima Sangle, workman in I.D. 72 of 1993, Shri B. S. Ahire, workman in I.D. 74 of 1993 have given similar evidence before this tribunal. They have stated that they do not know the Presiding Officer who conducted the enquiry and the Presenting Officer prior to the enquiry and they do not know their educational qualifications that their defence counsels know English and they used to explain the day's proceedings to them and then only they used to sign in the proceedings and that they and their defence counsel fully participated in the enquiry and cross-examined management witnesses. The workman Mr. Raghunath Karande in I.D. 73 of 1993 apart from giving evidence has stated above has also stated that he has not complained to the Enquiry Officer that the enquiry is not fair and proper. The worker Mr. Madhukar Kashinath Pagare in I.D. 81 of 1993 has stated that he was partly satisfied with the enquiry and his defence Assistant was fully satisfied with the enquiry held by the Enquiry Officer and he has no grievances. From this evidence of the various employees we can come to the conclusion that these workmen have no grievances with regard to the manner in which the enquiry was conducted by the Enquiry Officer and they have no complaint against the Enquiry Officer to the effect that they have not been given proper opportunity to defend them. Subsequent to the enquiry, the Enquiry Officer has given his report to the disciplinary authority on 28-6-90. Earlier to the report being given, in the criminal case tried against these employees on the very same facts by examining the very same witnesses, the Additional Chief Metropolitan Magistrate has given a finding that the prosecution has not proved the case against the accused and acquitted them of the charges framed against them. It is on the basis of this fact the learned counsel appearing for the workmen Mr. Abhay Kulkarni has challenged the fairness, legality and propriety of the order passed by the disciplinary authority against these workmen. According to the learned counsel appearing for the workmen, when once the criminal court finds the accused not guilty of the charges framed against them and acquits them the departmental proceedings should not have been conducted and the workmen should not have been dismissed from service as per the law laid down by the Supreme Court in various decisions. The learned counsel appearing for the management Mr. Talsania has on the other hand argued that there is no bar in holding a domestic enquiry simultaneously with criminal proceedings in respect of an occurrence and the disciplinary authority is empowered to take appropriate action against the employees if it is established that the charge against the employees has been proved in the domestic enquiry held for that purpose. In view of the legal propositions canvassed by the learned advocates of the either side it is expedient to refer to the various decisions relied by them.

8. Mr. Talsania has argued that in the domestic enquiry strict rules of Evidence Act are not their to be applied. He has relied upon the following decisions :

In (1996) 10 Supreme Court Cases Pages 659 between Kuldip Singh V/s. State of Punjab and Others it is held that strict rules of Evidence Act do not apply and that evidence must be relevant and how it is obtained is immaterial. In the decision reported in 1977 Supreme Court page 1512 between State of Haryana and another v. Rattan Singh it is held as follows :

"In a domestic enquiry the strict and sophisticated rules of evidence under the Evidence Act may not apply. All materials which are logically probative for a prudent mind are permissible. There is no allergy to hearsay evidence provided it has reasonable nexus and credibility. The departmental authorities and administrative tribunals must be careful in evaluating such material and should not glibly swallow what is strictly speaking not relevant under the Evidence Act."

In the decision reported in 1982 Supreme Court page 143 between J. D. Jain vs. Management of State Bank of India and another it is held that strict rules of evidence is not applicable in domestic enquiry and charge need not be established beyond reasonable doubts and proof of misconduct is sufficient". The learned counsel appearing for the work-

men does not dispute the above proposition of law laid down by the Supreme Court; but he would contend that the Supreme Court itself has held in the decision 1995 1 CLR page 225 between Sulekh Chand and Salek Chand vs. Commissioner of Police & Ors. that once the acquittal was on merits, the necessary consequence would be that the delinquent is entitled to reinstatement as if there is no plot on his service and the need for the departmental enquiry is obviated. He has also referred the decision reported in 1997 1 CLR Supreme Court Page 733 between Ravuru Babu Rao vs. General Manager, Oriental Insurance Co. Ltd., Madras, wherein the Andhra Pradesh High Court has held that it is true that there is no bar to pursue both departmental and criminal proceedings simultaneously; but in a case where an employee is acquitted by a competent Criminal Court and the Civil Court has also held in his favour, it is not proper to once again drive him to face the departmental enquiry. The learned counsel has also referred to the decision of the Bombay High Court referred in 1995 1 CLR 860 between Chandrakant Raoji Gaonkar v. Bombay Port Trust & Ors. wherein it has been held that where there is a honourable acquittal in the criminal case on merits and the charges in criminal case and disciplinary proceedings are common effect of acquittal in criminal case warrants the dropping of disciplinary enquiry. In the decision reported in 1995 1 LLN page 1026 between Special Officer, Salem, N.G.G.O's Co-operative Stores, Salem and another vs. Labour Court, Coimbatore, and R. V. Siddaiyan the Madras High Court has held as follows : The order in rule is that normally where the accused is acquitted honourably and completely exonerated of the charges it is not expedient to continue a departmental enquiry on the very same charges on grounds of evidence and that this is a rule of prudence and thus it does not take away the power of the authority concerned to continue the Departmental Domestic enquiry. In the decision reported in 1992 Supreme Court page 1981 it has been held that the scope and nature of a criminal case are very different from those of a departmental disciplinary proceedings and an order of acquittal therefore, cannot include the departmental proceedings. In this decision it has also been held that the tribunal has pointed out that the hands which laid to the initiation of the departmental proceedings were not exactly the same which was a subject matter of the criminal case; but in our case on hand the alleged acts of the workers which led to the initiation of the departmental proceedings were the proceedings which were the subject matter of the criminal cases. When we approach the case on hand in the light of the decision relied by both the sides, I am of opinion that the disciplinary authority has committed an error and illegality by accepting the findings of the Enquiry Officer and dismissing the workers herein. It is to be noted that the acquittal by the criminal court should be a honourable acquittal and not on technicalities in order to hold that the disciplinary authority could not have dismissed the employees. We have therefore, to see whether the acquittal by the criminal court of these employees is honourable acquittal or not ? The main witness examined before the criminal court as PW-1 to 3 are Mr. R. R. Kulkarni, Vigilance Officer, Mr. R. J. Gaud, Senior Vigilance Officer and V. R. Samant, Asst. Vigilance Officer. They were said to have caught hold of the accused, recorded their statements and prosecuted the employees before the criminal court since it was Mr. R. R. Kulkarni, V.O. who has given the complaint to the police. These three prosecution witnesses have been examined as W-4, W-5 and W-6 before the Enquiry Officer. The learned Metropolitan Magistrate has considered each and every witness examined before him and has given his conclusions. As far as Mr. Kulkarni is concerned the learned Metropolitan Magistrate has observed that his evidence as PW-1 is not directly connecting the accused to the present offence in question i.e. evidence is not sufficient, to convict the accused and his evidence is doubtful even on the point of seizure of the tanker and the panchanama. The learned Judge has also observed that the evidence of PW-1 with regard to the receipt given as ICCR as in favour of the accused. The learned Judge has made an observation that the evidence of PW-1 supports the defence of the accused and he finds that the evidence of PW-1 is not sufficient to convict the accused under the sections which they were charged. The learned Magistrate while considering the evidence of Mr. Gaud namely PW-2 before him has observed that his evidence with regard to the seizure of tanker under Panchanama could not be believed. It is also observed by

the learned Magistrate that the evidence of PW-2 that the tanker came on from the installation is doubtful and the evidence of PW-2 that the tanker entered into the complex and came out of the complex cannot be believed. As regards PW-3 Mr. Sawant, the learned Magistrate has observed that his evidence is not sufficient to convict the accused persons, under the sections which they were charged, and that his evidence is not directly connecting any accused with the present offence in question. These three witnesses are very important witnesses for the prosecution since they are officials of the management and they have been examined before the Enquiry Officer also. Their evidence has been found to be unworthy of acceptance by the learned magistrate. The learned magistrate has also rejected the evidence of PW-4 to 7 before him who are supposed to speak with regard to the seizure of the tanker and the panchnama since they turned hostile. As regards the evidence of PW-10 Senior Manager of Wadala Complex, the learned Magistrate has also held that his evidence does not connect any accused with the offence on question and his evidence supports the defence portion regarding their presence in the complex at the relevant time and place. The evidence of PW-11 and 12 have been rejected by the learned Magistrate as after thought finally. The learned Magistrate observed that there is no evidence on record that the accused removed the property from the possession of the complainant on the relevant date, time and place. The learned Magistrate has held that there is no evidence against any of the accused in respect of any over act said to have been committed by them. Giving such findings in respect of the witnesses examined, the learned Magistrate has acquitted the accused. The judgement of the learned Magistrate clearly establishes that the prosecution has failed to establish the case against any of the accused. Therefore, it has to be considered as a Honourable acquittal and not an acquittal on any technical grounds. Apart from some of the witnesses examined before the Criminal Court two witnesses were examined before the Enquiry Officer during the enquiry. One of them T.B. Patel who has been examined as W-2 was a defence witness before the Criminal Court. His evidence has been relied by the Enquiry Officer and the learned Magistrate has given a finding that his evidence gives the reason for the presence of accused Nos. 3 to 15 when the evidence of this witness was accepted in his capacity as a defence witness by the Criminal Court, the finding of the Enquiry Officer holding that the charges are proved on the basis of his evidence cannot be sustained. The decision reported in 1995 I CLR page 225 between Sulekh Chand and Salek Chand v. Commissioner of Police, applies in all force to the case on hand and even holding of domestic enquiry is unnecessary since the above decision has stated that once acquittal was on merits necessary consequences would be that the delinquent is entitled to reinstatement as if there is no blot on his service and he need departmental enquiry is obviated. On this ground alone the punishment imposed on these employees by the disciplinary authority is liable to be set aside and they are to be reinstated. The learned Counsel has challenged the punishment imposed on the workmen by the disciplinary authority by contending that the Enquiry Officers report was not furnished to the employees when the disciplinary authority issued the show cause notice on 4-7-91 and that itself is sufficient to hold that the enquiry is not fair and proper. In support of this contention the learned Counsel relies upon the following decisions

(i) In 1993 II C.L.R. page 1129 wherein it has been held as follows :

"The delinquent employee has to be given reasonable opportunity to defend himself. The right to receive the report of the Enquiry Officer is an essential part of the reasonable opportunity. Both the dictates of the reasonable opportunity as well as the principle of natural justice required that before the disciplinary authority comes to its own conclusions, the delinquent employee should have been an opportunity to reply to the Enquiry Officer's findings."

It has been specifically stated in the above decision as follows :

"The delinquent employee is entitled to receive report of the Enquiry Officer before disciplinary authority

takes a decision as to the guilt of the employee". Failure to give report of the Enquiry Officer's before such decision is denying reasonable opportunity to the employee to prove his innocence and is a breach of principle of natural justice. This decision has also referred to the earlier decision of the Supreme Court in Mohd. Ramzan's case reported in 1991 I CLR page 61 wherein it has been held as follows :

"The disciplinary authority is very often influenced by the conclusions of the Enquiry Officer and even by the recommendation relating to the nature of punishment to be inflicted. In case these conclusions are kept away from the delinquent employee and the Enquiry Officer submits his conclusions with or without recommendation as to punishment, the delinquent is precluded from knowing the contents thereof although such material is used against him by the disciplinary authority. The report is an adverse material if the Enquiry Officer records a finding of guilt and proposes the punishment. So far as the delinquent is concerned wherever there has been an Enquiry Officer and he has furnished a report to the disciplinary authority at the conclusion of the enquiry holding the delinquent guilty of all or any of the charges with proposal for punishment or not, the delinquent is entitled to a copy of such a report and will also be entitled to make a representation against it and non-furnishing of the report would amount to violation of rules of natural justice and make the final order liable to challenge thereafter. The learned counsel appearing for the management would argue that in the present case even though the employees were not furnished with the report of the Enquiry Officer at the first instance when the show cause notice was issued, later on, it was furnished to them at the request of the employees and they have also sent their replies and they have not pleaded that there is any prejudice caused to them on account of the failure of furnishing the findings of the Enquiry Officer and therefore, failure to furnish the Enquiry Officer's report would not amount to opposed to the principles of natural justice. In support of his contention the learned advocate Shri Talsania has relied upon the decision in 1996 Supreme Court 542 between Managing Director, EGIL, Hyderabad and Ors. v. B. Karunakar and Ors. IT 1993 (6) SC 1 wherein the Supreme Court has stated, non-supply of the copy of enquiry report to delinquent employee Appellant not able to satisfy Court as to the prejudice, if any, caused to him on account of non supply. No illegality in the decision taken by the High Court. I am of opinion that this decision relied by the learned counsel is not applicable to the facts of the present case.

9. We have already seen that the Supreme Court has held in the decision reported in 1993 II CLR 1129 that the delinquent employee is entitled to receive a report of the Enquiry Officer, before the disciplinary authority takes the decision as to the guilt of the employee and failure to give the report of the Enquiry Officer before such decision is a denial of reasonable opportunity to the employee to prove his innocence and it is opposed to the principles of natural justice. The show cause notice dated 4-7-91 marked as W-5 shows that the disciplinary authority has already come to the conclusion that the charges levelled against the workmen has been proved and they are grave and of serious nature warranting severe penalty of dismissal and the reply was required to show cause as to why the proposed punishment should not be imposed on him. The disciplinary authority has specifically stated that he has concurred with the findings of the Enquiry Officer holding the employee guilty of the charges levelled against him. As per the decision of the Supreme Court reported in 93 II CLR 1129 the delinquent employee is entitled to receive the report of the Enquiry Officer before the disciplinary authority takes a decision as to the guilt of the employee. In the case on hand subsequent to the disciplinary authority having taken a decision as to the guilt of the employee alone, the employee has been provided with the report of the Enquiry Officer and that too after his demand for the same. As per the above decision it amounts to a denial of reasonable opportunity to the emp-

employees concerned in these references to prove their innocence and it is opposed to the principle of natural justice. It is more so, when the above decision lays down that the report of the Enquiry Officer has to be furnished to the delinquent employee even when he does not ask for the same. Therefore, I am in agreement of the learned counsel appearing for the workmen that the enquiry has not been conducted according to the principles of natural justice.

10. The next question that arise for consideration is whether the employer should be given an opportunity to prove the charges against the employees on account of the finding that the enquiry is not in accordance with the principle of natural justice. We have already seen that the delinquent employees are entitled to reinstatement when once they have been found not guilty of the offence of which they have been charged in the Criminal Court and Honourable acquitted by the Criminal Court and they need not face the domestic enquiry. Therefore, I am of opinion that in view of the acquittal of the employees by the competent Criminal Court holding them not guilty of the charges which has become final the employer is not entitled to an order by which an opportunity may be furnished to them to prove the charges before this Tribunal in view of the Criminal Court judgement. Considering all these aspects I am of opinion that the order of dismissal is proper and therefore all these workmen in all this references are entitled to an order of reinstatement with back wages and other benefits.

11. In the result, a common award is passed in these references as follows :

The order of dismissal passed against the workmen in I. D. 69/93 is not proper and the workmen is entitled to an order of reinstatement with full back wages and other benefits.

The order of dismissal passed against the workman in I. D. 70 of 1993 is not proper and the workman is entitled to an order of reinstatement with full back wages and other benefits.

The order of dismissal passed against the workman in I. D. 71 of 1993 is not proper and the workman is entitled to an order of reinstatement with full back wages and other benefits.

The order of dismissal passed against the workman in I. D. 72 of 1993 is not proper and the workman is entitled to an order of reinstatement with full back wages and other benefits.

The order of dismissal passed against the workman in I. D. 73 of 1993 is not proper and the workman is entitled to an order reinstatement with full back wages and other benefits.

The order of dismissal passed against the workman in I. D. 74 of 1993 is not proper and the workman is entitled to an order of reinstatement with full back wages and other benefits.

The order of dismissal passed against the workman in I. D. 81 of 1993 is not proper and the workman is entitled to an order of reinstatement with full back wages and other benefits.

C. V. GOVERDHAN, Presiding Officer

नई दिल्ली, 24 फरवरी, 1999

क्रा.सं. 815.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरसंचार विभाग के प्रबंधन के संबंध में निम्नलिखित औद्योगिक विवाद में श्रम न्यायालय जोधपुर के पंचत को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-2-99 को प्राप्त हुआ था।

[स. एल-40012/74/92-आई.आर. (डीयू)]

के. वी. डी. उन्नी, अवसर सचिव

New Delhi, the 24th February 1999

S.O. 815.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Govt. hereby publishes the Award of the Labour Court, Jodhpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on the 24-2-99.

[No. I-40012/74/92-IR(DU)]

K. V. B. UNNY, Under Secy.

अनुबंध

श्रम न्यायालय, जोधपुर ।

पीठासीन अधिकारी :—श्री चांदमल तांतला, आर. एच. जे. एम. श्री. वि. (केन्द्रीय) सं. ---6/1994

श्री लादुराम पुत्र श्री गधनाथ दूरसंचार भवन के सामने, प्लोट नं. 963

प्रथम डी रोड, सरदारपुरा, जोधपुर ।

... प्रार्थी

बनाम

सहाप्रबंधक, दूरसंचार (पश्चिम), जोधपुर ।

... अप्रार्थी

उपस्थिति :—

(1) प्रार्थी की ओर से श्री डी.के. परिहार प्रतिनिधि

(2) अप्रार्थी की ओर से श्री फिरोजसिंह नाहर प्रतिनिधि अधिनिर्णय

दिनांक 10-2-1999

श्रम मंत्रालय भारत सरकार की विज्ञप्ति सं. एल. 40012/74/92 दिनांक 8-12-1994 में श्रमिक कर्मचारी तथा उसके नियोजक के मध्य उत्पन्न हुआ निम्नांकित औद्योगिक विवाद औद्योगिक विवाद अधिनियम के प्रावधानों के अन्तर्गत अधिनिर्णय हेतु इस न्यायाधिकरण को प्रेषित किया गया तथा दिनांक 29-12-1994 को नियमित श्री. विवाद सं. 6/94 पंजीबद्ध हुआ :—

"Whether the action of the General Manager, Telecommunication (West) Jodhpur in terminating the services of Shri Ladu Ram is proper, legal and justified? If not, to what relief the workman concerned is entitled?"

उपरोक्तानुसार विवाद प्रार्थी श्रमिक लादुराम की सेवाभक्ति की वैधानिकता से संबंधित है तथा प्रार्थी ने इसे अवैधानिक व अनुचित बताते हुए प्रस्तुत किये गये अपने मांग-पत्र आवेदन में प्रकट किया है कि उसकी नियुक्ति विपक्षी के टेलीकम्युनिकेशन विभाग, जोधपुर के अधीन दैनिक वैतनिक कर्मचारी के रूप में 1978 में हुई थी तथा उसे 182/-रुपये प्रतिमाह वेतन दिया जाता रहा व 15 अप्रैल, 1982 के मौखिक आदेश से उसकी सेवाएं समाप्त कर दी। आवेदन के अनुसार जनवरी 1978 से 15-4-1982 तक प्रार्थी विपक्षीय के नियोजन में

रहा तथा 15-4-82 के ठीक पहले के बारह माह में 240 दिन में अधिक अवधि तक कार्य भी कर लिया था परन्तु सेवा समाप्त पर प्रार्थी को नॉटिस व नॉटिस वेतन व क्षतिपूर्ति न तो अदा की गई न ही श्रद्धांगी प्रस्तावित की गई। 28-5-82 से 16-11-90 तक प्रार्थी ने कई आवेदन स उभ पुनः सेवा में लेने का निवेदन किया परन्तु सेवा में नहीं लिया गया तथा प्रार्थी की सेवा समाप्ति के पश्चात् 12-6-90 ने एक श्री कैलाशचन्द आचार्य को सेवा में लिया गया है जब कि प्रार्थी का वापस सेवा में आने का प्रस्ताव नहीं दिया गया। उपरोक्त आधारों पर बताया गया है कि अधिनियम की धारा 25-ए व एच के प्रावधानों का उल्लंघन करने हुए तथा श्रम शापण की नीति अयत्नाते हुए प्रार्थी की सेवा समाप्ति की गई। आवेदन के अनुसार श्री कैलाशचन्द को सेवा में लेने की जानकारी होने पर प्रार्थी ने अपने अभिभाषण के जरिये विपक्षी को नॉटिस दिलवाया तथा दिसम्बर 1991 में सम्माननीय अधिकारी के समक्ष विवाद उठाया परन्तु 7-5-1992 के आदेश में प्रार्थी का विवाद न्यायालय में प्रेषित करने से इन्कार कर दिया गया तथा प्रार्थी ने सम्माननीय उच्च न्यायालय में रिट याचिका संख्या 3301/92 प्रस्तुत की जिसमें दिनांक 28-10-1994 के निर्णय के अनुसार विवाद तथा यह क्लेम प्रस्तुत किया जा रहा है। प्रार्थना की गई है कि प्रार्थी को सेवा में पुनर्स्थापित किया जावे तथा सेवाएं निरन्तर मानते हुए सम्पूर्ण अवधि के वेतन व अन्य लाभ प्रदान किये जावें।

विपक्षी ने अपने उत्तर में जनवरी 1978 से अप्रैल, 1982 की अवधि में विभिन्न समय पर प्रार्थी का कार्य करना स्वीकार करते हुए बताया है कि प्रार्थी लगातार कार्यरत नहीं रहा। विपक्षी के उत्तर के अनुसार प्रार्थी निम्न प्रकार कार्य पर रहा :—

जनवरी, 1978	30 दिन
मार्च, 1978	04 दिन
अप्रैल 1978 से नवम्बर 1978	178 दिन
फरवरी 1979 से मार्च 1979	41 दिन
नवम्बर 1979 से दिसम्बर 1979	55 दिन
जनवरी 1980 से मार्च 1980	88 दिन
अप्रैल 1980 से दिसम्बर 1980	252 दिन
जनवरी 1981	31 दिन
मई 1981	31 दिन
जून 1981	29 दिन
अप्रैल 1981 से नवम्बर 81	91 दिन
अप्रैल 1982	15 दिन

उत्तर में बताया गया है कि प्रार्थी अप्रैल, 1982 के मध्य में स्वेच्छा से कार्य छोड़कर चला गया तथा वापस कार्य पर नहीं लौटा तथा इसके पहले भी प्रार्थी बार-बार कार्य छोड़कर चले जाने का आरोप था। विभाग में लगातार कार्य चला परन्तु समय-समय पर प्रार्थी कार्य छोड़कर चला जाता था। इन तरह उत्तर में बताया गया है कि जनवरी

1978 से अप्रैल 82 की अवधि में प्रार्थी जितने दिन कार्यरत रहा उसके अलावा बाकी अवधि में वह स्वेच्छा से कार्य छोड़कर चला जाता था तथा अनुपस्थित रहता था अनुपस्थिति का विवरण भी बताया गया है जिस विवरण को देखने से स्पष्ट होता है कि जिस अवधि में प्रार्थी का कार्य पर होना स्वीकार किया गया है उसके अलावा बाकी अवधि में विपक्षी के अनुसार प्रार्थी स्वेच्छा से अनुपस्थित रहा। उत्तर में यह भी बताया गया है कि प्रार्थी ने काफी समय पश्चात् अक्टूबर, 1990 में उसे पुनः सेवा में लेने का निवेदन किया तथा इसके पहले कभी भी कोई आवेदन नहीं दिया तथा प्रार्थी के अक्टूबर, नवम्बर 1990 के इस पत्र का 3-1-92 की उत्तर भी दिया गया था कि स्वेच्छिक लम्बी अनुपस्थिति के परिणामस्वरूप अब उसे कार्य पर नहीं लिया जा सकता तथा सेवा में लेने के लिए यह आवेदन प्रार्थी का कार्य पर आना समाप्त किया उसके भी आठ वर्ष बाद में प्रस्तुत किया गया। उत्तर में कैलाशचन्द आचार्य को नियुक्त किये जाने के संबंध में बताया है कि इस नाम के किसी भी व्यक्ति ने दूर संचार जिला प्रबन्धक, जोधपुर इकाई में कार्य नहीं किया तथा इस नाम का कोई भी व्यक्ति प्रार्थी के साथ में कार्यरत नहीं रहा अतः श्री आचार्य के नियोजन से प्रार्थी का कोई भी संबंध नहीं हो सकता। प्रार्थी द्वारा सम्माननीय उच्च न्यायालय में प्रस्तुत की गई रिट याचिका के संबंध में बताया गया है कि सम्माननीय न्यायालय ने विवाद प्रस्तुत करने में विलम्ब सहित तमाम प्रश्नों पर निर्णय हेतु मामला श्रम न्यायालय को प्रेषित करने का निर्देश दिया है। उत्तर में यह भी बताया गया है कि अप्रैल, 1982 में अनुपस्थित रहने के बाद में प्रार्थी ने कभी भी सेवा में रहने हेतु आवेदन नहीं किया, अक्टूबर 90 में प्रथम बार आवेदन किया जो आठ वर्ष बाद में किया गया है, इतनी लम्बी आठ वर्ष की अनुपस्थिति से स्पष्ट होता है कि प्रार्थी को विपक्षी के यहां सेवा करने की आवश्यकता व इच्छा नहीं थी। विपक्षी ने कभी भी किसी तरह से प्रार्थी का कार्य पर आने से इन्कार नहीं किया तथा विभागीय आदेशों के अनुसार मजदूरों की भर्ती पर प्रतिबन्ध है। उपरोक्त कारणों से बताया गया कि प्रार्थी को पुनः सेवा में नहीं लिया जा सकता आवेदन अस्वीकार किये जाने की प्रार्थना को।

साक्ष्य में प्रार्थी की ओर से स्वयं प्रार्थी श्री लाडू राम का शपथ-पत्र प्रस्तुत किया गया जिसमें आवेदन में अकिता-नुसार बताया गया जब कि विपक्षी की ओर से श्री एम एल. माथुर एस. डी. ई. (ट्रंस) का शपथ-पत्र प्रस्तुत किया गया जिसमें उत्तर के अनुरूप प्रकट किया गया। इन शपथ गृहताओं से प्रतिलिपि प्राप्त हुआ। उत्तर के साथ में प्रार्थी द्वारा प्रस्तुत किये गये आवेदन तथा सम्माननीय उच्च न्यायालय के आवेदन की प्रतिलिपियां भी प्रस्तुत की गई। प्रार्थी की ओर से उसके द्वारा दिया गया नॉटिस तथा कैलाशचन्द के नियुक्ति का आदेश की प्रतिलिपियां प्रस्तुत की गई तथा 22-7-96 के एक आदेश की प्रतिलिपि भी

प्रस्तुत की गई जिसके अनुसार श्री ज्यमलाल कर्मचारी को अस्थाई श्रमिक बनाया गया।

न्यायालय के 3-1-97 के निर्णय से प्रकरण का निर्णय हुआ जिसे सम्माननीय उच्च न्यायालय में रिट याचिका के जरिये चुनौती दी गई तथा 13-11-98 के निर्णय से सम्माननीय उच्च न्यायालय ने आवेदन को अपास्त कर प्रकरण को भीष निर्णय करने के निर्देश दिये।

उभय-पक्ष के प्रतिनिधियों के तर्क सुने गये पत्रावली का अवलोकन किया।

प्रस्तुत किये गये तर्कों व सच्यों को देखते हुए सर्व-प्रथम प्रार्थी की कार्य अवधि तथा कार्यदिवसों के लिए विचार करना उपर्युक्त है। प्रार्थी के शपथ-पत्र के अनुसार वह जनवरी 1978 से 15 अप्रैल, 1982 तक लगातार कार्यरत रहा जिस दिन मौखिक आदेश से उसकी सेवाएं समाप्त कर दी गई। प्रतिपरीक्षण में बताया है कि सेवाएं मौखिक आदेश से समाप्त की गई। इससे इन्कार किया है कि वह सेवा से अनुपस्थित हो गया।

विपक्षी के उत्तर के अनुसार प्राची जनवरी 78 से अप्रैल 1982 तक कार्यरत रहा परन्तु इस अवधि में उसका कार्य अत्यधिक व्यवधान सहित रहा तथा फरवरी 78, अप्रैल से अक्टूबर 1979 तथा फरवरी 1981 से अप्रैल, 1981 एवं दिसम्बर 81 से मार्च 1982 की अवधि में एक भी दिन कार्यरत नहीं रहा।

विपक्षी ने अपने उत्तर में प्रार्थी के जो कार्य के माह व कार्य दिवस बताये हैं उनको यथावत् मानते हुए भी गणना करने का प्रयास किया जावे तो अप्रैल, 78 से मार्च 1979 की अवधि में 219 कार्यदिवस होना प्रकट होता है जिसमें रविवार व अन्य अवकाश शामिल किये जावे तो निश्चित तौर से कार्यदिवस 240 से अधिक हो जाते हैं। इसी तरह जनवरी 80 से मार्च 80 तक 88 तथा अप्रैल, 80 से दिसम्बर, 80 तक 252 कार्यदिवस बताये गये हैं तथा जनवरी से दिसम्बर 80 के 12 माह में 340 कार्यदिवस हो जाते हैं। इसके बाद भी प्रार्थी ने जनवरी, मई व जून पूरे माहों में कार्य किया है व अप्रैल 81 से नवम्बर 1981 तक भी 91 दिन कार्यरत रहा है। प्रार्थी ने जनवरी 78 में कार्य प्रारम्भ किया तथा अक्टूबर 1978 तक ही कार्यदिवस 212 हो जाते हैं। इस तरह कम से कम तीन-चार बार समाप्त हुए बारह माह में प्रार्थी के कार्यदिवस 240 हुए हैं:—वर्ष 1988 में लगभग पूरे वर्ष प्रार्थी कार्यरत रहा है तथा उसके कार्यदिवस 340 रहे हैं तथा जनवरी 81 से नवम्बर 81 तक भी उसके कार्यदिवस विपक्षी के विवरण के अनुसार ही 182 हो जाते हैं। इस तरह शुद्ध स्थिति जो रहती है वह यह है कि जुलाई 1980 से ठीक पहले के बारह माह में प्रार्थी के 240 कार्यदिवस हो चुके थे तथा उसके बाद में भी प्रार्थी नवम्बर 81 तक कार्य पर रहा। नवम्बर 81 के बाद में सीधा अप्रैल 82 में कार्यरत

हुआ अतः यह निष्कर्ष लेने में तो कोई हिचकिचाहट नहीं हो सकती कि नवम्बर 81 तक प्रार्थी की सेवाएं एक वर्ष से अधिक अवधि से लगातार थी—तीन वर्ष से भी अधिक अवधि से लगातार थी इसके पहले भी प्रार्थी अप्रैल 82 से 15 दिन के लिए नियोजन में रहा।

विपक्षी के अनुसार प्रार्थी स्वयं कार्य छोड़कर चला गया। प्रतिनिधि विपक्षी ने तर्क दिया है कि रिफाई के अनुसार जो भी कार्य अवधि व कार्यदिवस थे उनका पूरा विवरण प्रस्तुत कर दिया गया था जिसको देखते से ही स्पष्ट है कि प्रार्थी कार्य से अनुपस्थित रहने का आदी था। प्रतिनिधि विपक्षी ने तर्क दिया है कि विपक्षी ने अपने उत्तर में ही उपरोक्तानुसार प्रार्थी का एक से अधिक बार 240 दिन से अधिक कार्यरत होता स्वीकार किया है अर्थात् रिफाई के अनुसार पूरी तरह से सत्य स्थिति बताई है। व्यापक को राय में विपक्षी का यह तर्क मानने योग्य है तथा यह मानने का कोई कारण नहीं है कि प्रार्थी ने कार्य का सत्य विवरण नहीं बताया है। इसके विपरीत यह पूरी तरह से माने जाने योग्य है कि विपक्षी ने पूरी तरह से सत्य विवरण दिया है। विवरण के अनुसार प्रार्थी फरवरी 78 अक्टूबर 78 से जनवरी 79, अप्रैल, 79 से अक्टूबर 79 फरवरी, मार्च 81 में भी एक भी दिवस कार्य पर नहीं रहा। जैसा कि विचार किया जा चुका है, जुलाई 80 से ठीक पहले के बारह माह में प्रार्थी के 240 से अधिक कार्यदिवस हो चुके थे अर्थात् नवम्बर 79 से नवम्बर 81 तक प्रार्थी की सेवाएं लगातार रही। इन परिस्थितियों में जुलाई 79 के पूर्व की अनुपस्थिति का कोई महत्व नहीं रह जाता। जुलाई 79 व नवम्बर 79 व अप्रैल 82 की प्रार्थी की अनुपस्थिति की ध्यान में रखा जावे तो भी कोई सहत्व नहीं है क्योंकि महत्वपूर्ण यह है कि इस अवधि के बारह माह में प्रार्थी के 240 से अधिक कार्यदिवस रहे या नहीं रहे। यह भी उपरोक्तानुसार है कि प्रार्थी की उपरोक्तानुसार अनुपस्थिति के बाद भी उसके कार्य पर उपस्थित होने पर विपक्षी द्वारा उसे कार्य पर लिया जाता रहा। ऐसी परिस्थिति में प्रार्थी पूर्व में अनुपस्थित रहा या अनुपस्थित रहता आया था, केवल इसी आधार पर यह निष्कर्ष नहीं लिया जा सकता कि प्रार्थी स्वेच्छा से 15-4-82 को कार्य छोड़कर चला गया।

विपक्षी के महायुक्त अभियन्ता श्री माधुर के शपथ-पत्र के अनुसार प्रार्थी 15-4-82 के बाद कार्य पर नहीं आया तथा स्वेच्छा से कार्य छोड़ दिया—प्रतिपरीक्षण में बताया है कि उसकी अनुपस्थिति के बारे में उसे कोई नोटिस नहीं दिया गया न ही कोई स्पष्टीकरण मांगा गया। कार्य अवधि व कार्यदिवसों को देखते हुए प्रार्थी लगभग ठाई तीन वर्ष से नियोजन में था—प्रार्थी के साथ कार्यरत रहे किसी व्यक्ति की सहाय नहीं हुई है न ही ऐसा कोई तथ्य है जिससे यह प्रकट हो कि प्रार्थी स्वयं कार्य छोड़कर चला गया था अतः केवल मात्र विपक्षी के उस गवाह के बयानों के आधार पर ही यह प्रमाणित नहीं माना जा सकता कि प्रार्थी स्वयं कार्य छोड़कर चला गया। प्रतिनिधि विपक्षी

ने तर्क दिया है कि अप्रैल 1982 के बाद में प्रार्थी ने सर्वप्रथम कार्य पर आने के लिए आवेदन ही नवम्बर 1990 में अर्थात् आठ वर्ष बाद में किया जिससे उसको पुष्टि होती है कि प्रार्थी स्वेच्छा से कार्य छोड़कर चला गया। यह भी बताया गया कि इस आधार पर भी प्रार्थी का कार्य छोड़कर चला जाना माना जाना चाहिये कि यदि वह पुनः काम पर आता तो उसे कार्य पर ले लिया जाता। जैसा कि उसे पूर्व में लिया जाता रहा है। न्यायालय की राय में विधि के अन्तर्गत यह सब तर्क माने जाने योग्य नहीं है। प्रार्थी का आठ वर्ष बाद में सेवा में लेने का आवेदन करना यह अपने आप में एक अलग तथ्य है जिसकाणायद अनुतोष पर प्रभाव पड़ सकता है परन्तु इस आधार पर यह भावना नहीं हो सकती कि प्रार्थी स्वेच्छा से कार्य छोड़कर चला गया।

प्रार्थी ने अपने शपथ-पत्र में मई 1982 से नवम्बर 1990 तक की ग्यारह तिथियां बताते हुए उन तिथियों को पुनः सेवा में लेने का आवेदन करना बताया है। प्रतिपरीक्षण में बताया है कि मई 1982, जनवरी 86, तथा अक्टूबर 1990 व नवम्बर 1990 में आवेदन प्रस्तुत किये जाने तथा उन पत्रों की प्राप्ति रसीद उसके पास है। प्रतिनिधि विपक्षी ने तर्क दिया है कि ऐसी कोई भी रसीद प्रस्तुत नहीं की गई है तथा जो व्यक्ति मई 1982 से नवम्बर 1990 तक लगातार ग्यारह-बारह बार आवेदन करता रहे उसके पास रसीदें उपलब्ध नहीं हो यह नहीं माना जा सकता तथा चूंकि रसीदें प्रस्तुत नहीं की गई हैं अतः निष्कर्ष यही होता है कि प्रार्थी द्वारा ऐसा कोई आवेदन प्रस्तुत नहीं है किया गया। प्रतिनिधि प्रार्थी ने तर्क दिया है कि श्रमिक के लिए इस तरह की पोस्टल रसीदें सम्भाल कर रखना सम्भव नहीं है तथा इस आधार पर यह नहीं माना जाना चाहिये कि कोई आवेदन नहीं किया।

प्रार्थी के अनुसार उसे अप्रैल 1982 में सेवा से हटा दिया गया था जिसके तुरन्त पश्चात् उसने मई 1982 में आवेदन देना शुरू कर दिया तथा मई व जुलाई, 1982 तथा मार्च, मई 84 फिर जनवरी, 86 अप्रैल, 88, दिसम्बर 88, अगस्त 89, अक्टूबर 90, जनवरी 90 व नवम्बर 90 में आवेदन दिये। यदि प्रार्थी उपरोक्तानुसार आवेदन प्रस्तुत करता रहा तो अधिक से अधिक यह माना जा सकता है कि प्रारम्भ के एक-दो तिथियों की रसीदें उसने नहीं रखी होंगी परन्तु किसी तरह से यह नहीं माना जा सकता कि बाद में दिये जाने वाले आवेदनों के लिए उसने कोई रसीद नहीं रखी। प्रार्थी के अनुसार वह मई 1984 से पहले-पहले तीन आवेदन दे चुका था—इन तथ्यों के समक्ष जब कि प्रार्थी ने कोई रसीद भी प्रस्तुत नहीं की है, यह प्रकट होता है कि प्रार्थी नवम्बर 1990 के पहले कभी कोई आवेदन प्रस्तुत नहीं किया यदि प्रार्थी द्वारा कोई आवेदन प्रस्तुत किया जाता तो निश्चित तौर से मई 84 व इसके बाद प्रस्तुत किये गये आवेदन की रसीदें उसके पास उपलब्ध होनी चाहिये थी।

इस तरह प्रार्थी की सेवा एक वर्ष से अधिक लगातार होना प्रमाणित है। प्रार्थी को कार्य पर नहीं लिया जाना

भी प्रष्ट होता है, प्रार्थी के लिए धारा 25 की पालना नहीं की गई ऐसा नहीं बताया गया अतः प्रमाणित है कि अधिनियम की धारा 25-एफ के प्रावधानों का उल्लंघन करने हुए प्रार्थी की सेवाएं समाप्त की गई।

प्रतिनिधि प्रार्थी ने तर्क दिया है कि धारा 25-एफ के प्रावधान आदेशात्मक हैं जिनकी पालना नहीं की गई अतः प्रार्थी को सेवा में पुनर्स्थापित किया जाना चाहिए। यह भी तर्क दिया गया कि प्रार्थी के बाद में अन्यो को नियोजन में लिया गया तथा कैलाशचन्द को सेवा में रखा गया। विपक्षी की ओर से तर्क दिया गया कि कैलाशचन्द या अन्य किसी को नियोजन में नहीं रखा गया तथा आठ वर्ष बाद में सर्वप्रथम आवेदन किया गया व अब सोलह वर्ष होने जा रहे हैं ऐसी नियुक्तियों पर भी पूर्ण प्रतिबन्ध है अतः प्रार्थी को पुनः सेवा में नहीं लिया जा सकता।

प्रार्थी के शपथ-पत्र के अनुसार श्री कैलाशचन्द ने उसके साथ ही कार्य किया था जिसे कि 12-6-90 को प्रार्थी के स्थान पर ले लिया गया। प्रतिपरीक्षण में बताया है कि श्री कैलाशचन्द जोधपुर में ही कार्य करता था—इस तरह स्वयं प्रार्थी के शपथ-पत्र से ही यह स्पष्ट होता है कि श्री कैलाशचन्द उसके साथ में कार्य कर रहा था। ऐसी परिस्थिति में जब तक अन्य विनिर्दिष्ट तथ्य नहीं हों यह निष्कर्ष लेना कठिन है कि श्री कैलाशचन्द प्रार्थी से कनिष्ठ था। विपक्षी के गवाहों सहायक अभियन्ता श्री माथुर की माक्ष के अनुसार श्री कैलाशचन्द को विपक्षी दूर संचार जिला प्रबन्धक, जोधपुर ने कभी नियुक्त नहीं किया तथा न ही इस नाम के व्यक्ति ने इस यूनिट में कार्य किया। प्रतिपरीक्षण में भी यही बताया गया है। प्रार्थी की ओर से श्री कैलाशचन्द की नियुक्ति संबंधी आदेश प्रस्तुत किया गया जो प्रदर्श-4 बताया जाता है, यह आदेश 12-6-90 का है जिसके अनुसार यह कर्मचारी 15-4-86 से लंगमंग सन् 1990 तक अनुपस्थित रहा, जिस अनुपस्थिति को फरवरी 90 के पत्र में क्षमा कर दिया गया तथा उसे आगे कार्य करने के निर्देश हेतु निर्देशक दूर संचार विभाग में उपस्थित होने के निर्देश भी दिये गये। प्रार्थी ने अपने आवेदन के पैग संख्या-7 में पत्र के आधार पर तथा यह नियुक्ति होने पर ही स्वयं को नौकरी पर रखे जाने की आवश्यकता प्रकट की है। इस पत्र से स्पष्ट है कि श्री कैलाशचन्द का मामिला प्रार्थी में पूर्णतया भिन्न व वह कर्मचारी सन् 1986 से काफी समय पहले से कार्यरत था जब कि प्रार्थी के अनुसार उसकी सेवाएं ही अप्रैल 1986 में समाप्त कर दी गई। प्रार्थी की ओर से 22-7-96 के आदेश सं. 16 की तरफ भी न्यायालय का ध्यान आकर्षित किया गया जिसके अनुसार श्री श्यामलाल को आकस्मिक कर्मचारी से टेम्प्रेरी का स्टेटस दिया गया। इस आदेश को देखने से भी स्पष्ट होता है कि 30-3-85 से 22-6-88 तक लगातार कार्यरत रहे कर्मचारियों को नियमित करने की नीति को फलस्वरूप ऐसा किया गया। इस आदेश से भी प्रार्थी को कोई लाभ नहीं मिलता क्योंकि प्रार्थी अप्रैल, 1982 के बाद में कार्यरत नहीं रहें।

एक वर्ष में अधिक सेवारत रहे कर्मचारी की सेवा समाप्त करने पर धारा 25—एफ की पालना किया जाना आवश्यक है। प्रार्थी की सेवाएं समाप्त की गईं तथा इन प्रावधानों की पालना नहीं की गई अतः प्रार्थी की सेवा समाप्ति विधिवत नहीं है।

प्रतिनिधि विपक्षी ने तर्क दिया है कि प्रार्थी की सेवा में पुनर्स्थापित नहीं किया जा सकता—प्रार्थी एक विभाग के अन्तर्गत मात्र एक दैनिक वेतनभोगी कर्मचारी था, जिस पद व कार्य पर प्रार्थी को लगाया गया वह कार्य व पद समाप्त हो चुके हैं—प्रार्थी अन्तिम बार जब कार्यरत रहा उसके बाद अब तक 16 वर्ष निकल चुके हैं तथा प्रार्थी ने काफी लम्बी अवधि के बाद में वैधानिक कार्यवाही प्रारम्भ की। इस तरह के पद व कार्य के लिए कोई पद व अधिकार उत्पन्न नहीं होने तथा पद सृजन करना व समाप्त करना सरकार के विवेक पर निर्भर करता है। विपक्षी की ओर से यह भी तर्क दिया गया कि यदि सेवा समाप्ति में किन्हीं प्रावधानों की पालना नहीं की जा सकती तो यह तकनीकी व प्रक्रिया संबंधी कमी रही है जिसके लिए पुनर्स्थापना से भिन्न अनुतोष भी प्रदान की जा सकती। इन तर्कों के समर्थन में विभिन्न व्यवस्थाएं प्रस्तुत की जिनका आदरपूर्वक अवलोकन किया गया।

- (1) ए. आई. आर. 1982 सुप्रीम कोर्ट—1107
- (2) ए. आई. आर. 1994 सुप्रीम कोर्ट—1633
माध्यमिक शिक्षा परिषद उत्तर प्रदेश बनाम अनिल कुमार मिश्रा व अन्य
- (3) 1997 (3) सुप्रीम—737 उच्चतम न्यायालय
हिमांशु कुमार विश्वार्थी बनाम स्टेट ऑफ बिहार
- (4) 1997 (5) सुप्रीम कोर्ट कैसेज—434—अधि.
अभियन्ता (कर्नाटक सरकार) बनाम के. सीमा
सेठो व अन्य
- (5) जे. टी. 1996(2) सुप्रीम कोर्ट—455
स्टेट बैंक ऑफ हिमाचल प्रदेश बनाम सुरेश कुमार
- (6) 1993 (3) वेस्टर्न लैंड कैसेज (राज.)
551—उजरंग लाल बनाम महायक अभियन्ता
सा. नि. वि.
- (7) ए. आई. आर. 1998 सुप्रीम कोर्ट—1477—
अरुण कुमार रीत बनाम स्टेट ऑफ बिहार

प्रार्थी स्वयं उसके अनुसार एक दैनिक वेतनिक कर्मचारी था तथा यदि प्रार्थी को पुनर्स्थापित किया जाता तो इसी रूप में पुनर्स्थापित होगा। इस तरह के कर्मचारियों के लिए सम्माननीय उच्चतम न्यायालय ने ए. आई. आर. 1992—उच्चतम न्यायालय 789—देहली डेवलपमेंट होर्टीकल्चर एम्प्लॉयज यूनियन बनाम देहली एडमिनिस्ट्रेशन में निम्नमत अभिव्यक्त किया है:—
713 GI/99—15.

"Apart from the fact that the petitioners cannot be directed to be regularised for the reasons given above we may take note of the pernicious consequences to which the direction for regularisation of workmen on the only ground that they have put in work for 240 or more days, has been leading. Although there is Employment Exchange Act which required recruitment on the basis of registration in the Employment Exchange, it has become a common practice to ignore the Employment Exchange and the persons registered in the Employment Exchange, and to employ and get employed directly those who are either not registered with the Employment Exchange or who though registered are lower in the long waiting list in the Employment Register. The courts can take judicial notice of the fact that such employment is sought and given directly for various illegal considerations including money. The employment is given first for temporary periods with technical breaks to circumvent the relevant rules, and is continued for 240 or more days with a view to give the benefit of regularisation knowing the judicial trend that those who have completed 240 or more days are directed to be automatically regularised. A good deal of illegal employment market has developed resulting in a new source of corruption and frustration of those who are waiting at the Employment Exchanges for years. Not all those who gain such back-door entry in the employment are in need of the particular jobs. Though already employed elsewhere, they join the jobs for better and secured prospects. That is why most of the cases which come to the courts are of employment in Government Departments, Public Undertakings or Agencies. Ultimately it is the people who bear the heavy burden of the surplus labour. The other equally injurious effect of indiscriminate regularisation has been that many of the agencies have stopped undertaking casual or temporary works though they are urgent and essential for fear that is those who are employed on such works are required to be continued for 240 or more days have to be absorbed as regular employees although the works are time bound and there is no need for the workmen beyond the completion of the works undertaken. The public interests are thus jeopardised on both counts."

प्रार्थी को पुनर्स्थापित किया जाता है कि तो वह दैनिक वेतनिक कर्मचारी के रूप में ही पुनर्स्थापित होगा तथा उपरोक्त तरह की कठिनाई, विषमताएं व जटिलताएं उत्पन्न होने की सम्भावना से इस्कार नहीं किया जा सकता। विधि की यह स्थिति भी प्रकट होती है कि नियोजन-विशेष तौर से राज्य के अधीन नियोजन व भर्ती में खाल व नियुक्ति के लिए आवश्यक योग्यता व प्रक्रिया की पालना आवश्यक तौर से की जानी चाहिए।

धारा 25—एफ के उल्लंघन के प्रत्येक मामले में यह आवश्यक नहीं कि पुनर्स्थापन किया जावे। पुनर्स्थापन से

भिन्न अनुतोष भी प्रधान की जा सकती है तथा एक मुश्त क्षतिपूर्ति राशि प्रधान किया जाना एक उचित वैकल्पिक अनुतोष हो सकता है। सम्माननीय उच्चतम न्यायालय ने भी ऐसे कई मामलों में इस तरह से अभिमत व्यक्त किया है कि उचित तथ्यों व आधारों पर पुनर्स्थापन से भिन्न अनुतोष प्रधान की जा सकती है जिसमें से कुछ व्यवस्थाएं इस प्रकार से हैं :—

- (1) 1995 एस.सी.सी. (एल. एण्ड एस.) 529 मुंजित घोष बनाम यू.पी. बैंक।
- (2) 1995 एस.सी.सी. (एल. एण्ड एस.) 142-रोलस्टन चौहान बनाम सेन्ट्रल इण्डस्ट्रीयल ट्रिब्यूनल
- (3) एल.एल.जे. 1996 (1) 637- रजवंत सिंह रेवत बनाम दी डिस्ट्रीक्ट फूड एण्ड सप्लाइज कन्ट्रोलर फिरोजपुर व अन्य
- (4) एल.एल.जे. 1996 (1)-644 गिबबबा कोप-रेटिव मार्केटिंग कम प्रोसेसिंग सीसाईटी लि. बनाम प्रेसाईडिंग ऑफिसर लेबर कोर्ट।
- (5) 1995 एस.सी.सी. (एल. एण्ड एस.) 141- गुजरात स्पोर्ट्स टोर्नट्मेंट्स कॉर्पोरेशन व अन्य बनाम मुलुआमरा।
- (6) 1995 एस.सी.सी. (एल. एण्ड एस.) 573 सैयद हुसैनी बनाम आन्ध्रा बैंक।

प्रार्थी की सेवा कुल ढाई वर्ष से लगातार थी, सेवा अप्रैल 1982 से समाप्त हुई जिसे अब लगभग 19 वर्ष होने जा रहे हैं। प्रार्थी मात्र एक दैनिक वैतनिक कर्मचारी था-यह नहीं माना जा सकता कि प्रार्थी ने इन 19 वर्षों की अवधि में किसी तरह से कोई कार्य नहीं किया हो-यदि प्रार्थी को पुनर्स्थापन किया जाता है तो उस परिस्थिति में इन 19 वर्षों की अवधि में प्रार्थी ने जो कार्य व अनुभव तथा योग्यता प्राप्त करी है उसकी उपयोगिता नहीं रह जायेगी तथा इसके बाद भी प्रार्थी मात्र एक दैनिक वैतनिक कर्मचारी ही रहेगा। यदि प्रार्थी ने इस लम्बी अवधि में कोई कार्य नहीं किया है तो उसकी क्षमता के प्रश्न पर गंभीर विवाद उत्पन्न हो सकता है। प्रार्थी ने प्रथम बार वैधानिक कार्यवाही स्वयं उसके अनुसार ही अप्रैल 1991 में अर्थात् सेवा समाप्ति के लगभग नौ वर्ष बाद में प्रारम्भ करी। प्रार्थी ने अपने शपथपत्र में इस अवधि में उसका नियोजन या उसके द्वारा क्या कार्य किया गया, इस बारे में कुछ भी प्रकट नहीं किया गया है। अतः किसी तरह से यह नहीं माना जा सकता कि प्रार्थी इस अवधि में नियोजन में नहीं रहा-प्रार्थी को विधि के अनुसार अकुशल श्रमिक की आवश्यकताओं के देय न्यूनतम वेतन ही दिया जाता था ऐसी परिस्थिति में न्यायालयों की राय में प्रार्थी को पुनर्स्थापन किये जाने का किसी तरह का कोई औचित्य नहीं हो सकता, उचित मामलों में केवल मात्र देरी के आधार पर ही अनुतोष दिये जाने से इन्कार किया जा सकता है तथा प्रार्थी ने कार्यवाही नौ वर्ष बाद में प्रारम्भ

की। इसे सब परिस्थितियों को देखते हुए प्रार्थी को पुनर्स्थापन के बजाये एक मुश्त क्षतिपूर्ति की राशि दिलाया जाना उपर्युक्त है।

क्षतिपूर्ति की राशि निर्धारण में कई तथ्य सहायक हो सकते हैं जैसे कि की गई सेवा की अवधि-नियोजन की प्रकृति व किया जा रहा कार्य व कार्य के लिए दिया जा रहा वेतन तथा उसी कार्य के लिए अर्पित देय वेतन—यदि विधि के प्रावधानों की पालना की जाती तो तत्समय देय राशि तथा अब देय राशि—यदि पुनर्स्थापित किया जावे तो पूर्वभूति की राशि व अब उस कार्य के लिए पारिश्रमिक की राशि इत्यादी। प्रार्थी स्वयं के अनुसार उसे उस समय 182/- रुपये प्रतिमाह मिलते थे-प्रार्थी की सेवाओं को देखते हुए उसे एक माह के नोटिस के अतिरिक्त षेड़ माह की क्षतिपूर्ति की राशि केवल ढाई माह का वेतन देय होता जो 500/- रुपये से अधिक नहीं होता तथा मुद्रास्फीति व ब्योज दर को देखते हुए वह 500/- रुपये की राशि अब तक अधिकतम लगभग 4500/- रुपये होना माना जा सकता है। ऐसे कर्मचारियों को सन् 1993 से पहले कुछ वर्षों पहले तक 22/- रुपये प्रतिदिन दिये जाते थे तथा मई 998 तक 32/- रुपये देय होते थे व अब 42/- रुपये प्रतिदिन दिये जाते हैं। तमाम परिस्थितियों को देखते हुए पुनर्स्थापन किये जाने पर प्रार्थी की दिनांक रेफरेन्स 8-12-94 से अब तक लगभग सवाँ चार वर्ष के वेतन की 15-20 प्रतिशत पूर्वभूति के रूप में राशि दी जाती। जो कि लगभग अठानवे हजार रुपये होगी। तमाम परिस्थितियों को देखते हुए प्रार्थी को 25,000/- (पच्चीस हजार रुपये) बतौर क्षतिपूर्ति दिलाया उचित प्रतीत होता है। यह 25,000/- रुपये की राशि प्रार्थी को तत्समय प्रचलित दरों के अनुसार कम से कम सात-आठ वर्ष के वेतन के बराबर की राशि होती तथा वर्तमान दरों के अनुसार ढाई-तीन वर्ष के वेतन के बराबर की राशि होती है जब कि प्रार्थी की सेवा ही कुल दो वर्ष की थी। तदनुसार यह विवाद अधिनिर्णित किये जाने योग्य है।

अधिनिर्णय

श्रम मंत्रालय भारत सरकार की विज्ञप्ति सं. 40012/-74/92 के अन्तर्गत प्रेषित विवाद इस तरह से अधिनिर्णित किया जाता है कि जनरल मैनेजर टेलीकम्युनिकेशन विभाग, जोधपुर द्वारा श्रमिक श्री लादुराम को सेवा से पृथक करना अनुचित एवं अवैधानिक है। परन्तु प्रकरण के तमाम तथ्यों एवं परिस्थितियों को देखते हुए प्रार्थी लादुराम को सेवा में पुनर्स्थापन के बजाए एक मुश्त 25,000/- रुपये (पच्चीस हजार रुपये) की राशि क्षतिपूर्ति के रूप में अप्रार्थी नियोजक से प्राप्त करने का अधिकारी घोषित किया जाता है। अप्रार्थी नियोजक द्वारा प्रार्थी को 25,000/- (पच्चीस हजार रुपये) की राशि अदा कर दिये जाने पर अप्रार्थी नियोजक के प्रार्थी के प्रति बतौर श्रमिक सारे दायित्व समाप्त हो जायेंगे। इसके अतिरिक्त प्रार्थी अन्य कोई अनुतोष अप्रार्थी नियोजक के प्राप्त करने का अधिकारी नहीं है। इस अधिनिर्णय को अकाशवाणी

श्रम मंत्रालय भारत सरकार नई दिल्ली को प्रेषित किया जावे।

यह अधिनिर्णय आज दिनांक 10-2-1999 को न्यायालय में हस्ताक्षर कर सुनाया गया।

चांदमल तोतला, न्यायाधीश

नई दिल्ली, 17 फरवरी, 1999

का.सं. 816.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पश्चिम रेलवे, कोटा के अधिभूत के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कोटा (राज.) के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 16-2-1999 को प्राप्त हुआ था।

[सं. एल-41012/48/89-डी-2(बी)/बी-1]
सनातन डेस्क, अधिकारी

New Delhi, the 17th February, 1999

S.O. 816.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kota (Raj.) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Paschim Railway, Kota and their workman, which was received by the Central Government on 16-2-1999.

[No. L-41012/48/89-D-2(B)/B.I.]
SANATAN, Desk Officer

अनुबंध

न्यायाधीश, औद्योगिक न्यायाधिकरण (केन्द्रीय) कोटा (राज.)

निर्देश प्रकरण क्रमांक : औ. न्या. (केन्द्रीय)-8/94

दिनांक स्थापित : 28-9-94

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्रमांक एल-41012/48/89-डी-2 (बी)

औद्योगिक विवाद अधिनियम, 1947

मध्य

राकेश ठाकुर द्वारा डिबीजनल सेक्रेटरी पश्चिम रेलवे

कर्मचारी परिषद कोटा (राज.) —प्रार्थी श्रमिक

एवं

डिबीजनल रेलवे मैनेजर, पश्चिम रेलवे कोटा।

—प्रतिपक्षी नियोजक

उपस्थिति

श्री जगदीश प्रसाद शर्मा,

आर. एच. जे. एस.

प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री ए. डी. ग़ोबर

प्रतिपक्षी नियोजक की ओर से प्रतिनिधि : श्री ग्योम सुब्बा

अधिनिर्णय दिनांक : 28-1-99

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा निम्न निर्देश औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरांत

“अधिनियम” से सम्बंधित किया जावेगा) की धारा 10(1) (घ) के अन्तर्गत केन्द्रीय औद्योगिक न्यायाधिकरण, नई दिल्ली को उक्त प्रासंगिक अधिसूचना के द्वारा अधिनिर्णयार्थ सम्प्रेषित किया गया था :—

“Whether the action of the D.R.M., Western Railway, Kota in terminating the services of Sh. Rakesh Thakur w.e.f. 4th June, 1985 is justified? If not, what relief the workman is entitled to?”

2. सम्प्रेषित उक्त निर्देश उक्त न्यायाधिकरण में दर्ज रजिस्टर होकर विचारण में लिया गया। तत्पश्चात् भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेश क्रमांक एल-41011/11/87-डी-II(बी) दिनांक 20-7-94 के द्वारा उक्त निर्देश विधिवत स्थानांतरित होकर इस न्यायाधिकरण की अधिनिर्णयार्थ प्राप्त हुआ जिसे दर्ज रजिस्टर किया जाकर पक्षकारों को सूचना जारी की गयी। प्रार्थी श्रमिक राकेश ठाकुर की ओर से क्लेम स्टेटमेंट प्रस्तुत कर संक्षेप में यह अधि-कथित किया गया है कि प्रार्थी श्रमिक द्वारा प्रतिपक्षी डिबीजनल रेलवे मैनेजर, पश्चिम रेलवे कोटा, जिसे तदुपरांत संक्षेप में “प्रतिपक्षी नियोजक” से सम्बंधित किया जायेगा के यहां स्टाफ कैन्टीन में दिनांक 31-5-83 से आकस्मिक खल्लासी के पद पर नियोजित होकर दिनांक 4-6-85 तक निरन्तर कार्य कर उक्त नियोजन काल में प्रत्येक 12 क्लेण्डर माह से 240 दिवस पूर्ण कार्य किया गया है तब प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक को दिनांक 5-6-85 से बिना एक मॉह का नोटिस अथवा नोटिस वेतन व छुट्टी का मुआवजा दिये अधिनियम की धारा 25-एफ के आशात्मक प्रावधानों की अवहेलना करते हुए अनुचित व अवैध प्रकार से सेवा से पृथक कर दिया गया। प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक को उक्त प्रकार से सेवा से पृथक करने के पश्चात् औद्योगिक विवाद नियमों के नियम 76 व 77 के प्रावधानों की अवहेलना करते हुए प्रार्थी के स्थान पर एक अन्य श्रमिक अशोक पुत्र नरेन्द्र सिंह को दिनांक 3-10-86 को नियोजित भी कर लिया तब प्रार्थी श्रमिक प्रतिपक्षी नियोजक के यहां नियोजन में पिछले सम्पूर्ण वेतन व देय अन्य समस्त लाभों सहित पुनः सेवा पर बहाल करवाये जाने का अधिकारी रहा है। आगे प्रत्युत्तर (Rejoinder) प्रस्तुत कर यह अभिकथन भी किया गया है कि प्रतिपक्षी नियोजक के यहां स्थित उक्त स्टाफ कैन्टीन के कर्मकार प्रतिपक्षी रेलवे विभाग के कर्मकार की तरह ही है और उन्हें भी अन्य रेलवे कर्मचारियों की भांति रेलवे का अन्य सुविधायें प्रदान की जाती रहीं हैं। अतः प्रार्थी को उक्त क्लेम में स्वीकार किया जाये।

3. प्रतिपक्षी नियोजन की ओर से जवाब क्लेम प्रस्तुत कर प्रार्थी श्रमिक के उक्त क्लेम को अस्वीकार किया गया है तथा प्रतिवादस्वरूप संक्षेप में यह अभिकथित किया गया है कि प्रार्थी श्रमिक प्रतिपक्षी रेलवे विभाग का कभी भी कर्मकार नहीं रहा है। प्रार्थी श्रमिक को कभी भी प्रतिपक्षी नियोजक द्वारा रेलवे विभाग के किसी उपक्रम

में नियुक्त नहीं किया गया है और न ही सेवा से पृथक् किया गया है तथा प्रतिपक्षी नियोजक व प्रार्थी श्रमिक के मध्य कभी भी नियोजक व कर्मकार के संबंध स्थापित नहीं रहे हैं। वास्तविक रूप में प्रार्थी श्रमिक को प्रतिपक्षी कार्यालय की कानूनी दायित्व के रूप में स्थापित केन्टीनों से भिन्न स्टाफ केन्टीन में प्रबन्ध कमेटी के सचिव द्वारा नियोजित नहीं किया गया है और सेवा से भी पृथक् किया गया है जिस स्टाफ केन्टीन में भी 5 कर्मचारी ही सेवा कार्य पर नियोजित रहे हैं तब स्टाफ केन्टीन पर भी अधिनियम के प्रावधान प्रभावी नहीं होते हैं। प्रतिपक्षी नियोजक द्वारा कथित श्रमिक अशोक को कभी भी नियोजित नहीं किया गया है। प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक के मामले में अधिनियम के अधीन किसी भी प्रावधान एवं नियम का उल्लंघन नहीं किया गया है। अतः प्रार्थी श्रमिक का प्रस्तुत क्लेम सत्य निरस्त किया जावे।

4. प्रार्थी श्रमिक की ओर से साक्ष्य में स्वयं प्रार्थी श्रमिक का व साक्षी मनीराम पुत्र जोहरीलाल का शपथ-पत्र प्रस्तुत किया गया है जिस पर प्रतिपक्षी प्रतिनिधि द्वारा प्रतिपरीक्षा की गयी है। प्रलेखीय साक्ष्य में प्रदर्शित डब्ल्यू. 1 सविस् कार्ड, प्रदर्शित डब्ल्यू. 2 अशोक कुमार द्वारा पहली नियुक्ति के मामले में भरे जाने वाला व्यौरा कार्ड व अन्य में रेलवे पास को प्रस्तुत कर प्रदर्शित करवाया गया है।

5. प्रतिपक्षी नियोजक की ओर से साक्ष्य में साक्षी निर्भय दीक्षित-का शपथ-पत्र प्रस्तुत किया गया है जिस पर प्रतिनिधि प्रार्थी द्वारा प्रतिपरीक्षा की गयी है। प्रार्थी के आवेदन पर केन्टीन स्टाफ से वर्ष 85 से वर्ष 90 तक जारी रेलवे पासेज का विवरण-पत्र प्रस्तुत किया गया है।

6. मैंने दोनों पक्षों के विद्वान प्रतिनिधिगण की बहस सुनी जो मुख्यतः उनके उक्त अभिवक्तियों के अनुरूप ही रही है। विद्वान प्रतिनिधि प्रार्थी द्वारा अपनी बहस समर्थन में भारतीय रेल स्थापना मैनुअल के भाग "एफ" के पैरा 2229 लगा 2237 व माननीय उच्चतम न्यायालय के न्यायदृष्टांत "ए.आई.आर. 1990 एस.सी. 937-एम.एम.आर. खान एवं अन्य बनाम यूनियन ऑफ इण्डिया व अन्य" को भी उद्धृत किया गया है।

7. मैंने दोनों पक्षों की बहस पर विचार किया तथा प्रस्तुत अभिलेख एवं पत्रावली का ध्यानपूर्वक अवलोकन किया।

8. प्रार्थी श्रमिक की क्लेम स्टेटमेंट समर्थन में प्रस्तुत शपथ-पत्र पर अपने नियोजन संबंधी मुख्यतः यह साक्ष्य रही है कि प्रार्थी श्रमिक द्वारा प्रतिपक्षी नियोजक के यहां नियोजन में 31/5/83 से स्टाफ केन्टीन में आकस्मिक खल्लासी के पद पर नियोजित होकर दिनांक 4/6/85 तक निरन्तर कार्य किया गया है तब प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक को बिना एक माह का नोटिस अथवा नोटिस वेतन व छंटनी का मुआवजा दिये, अधिनियम की धारा

25-एफ के आज़ात्मक प्रावधानों की अवहेलना करते हुए अनूचित व अवैध प्रकार से सेवा से पृथक् किया गया है। आगे यह साक्ष्य भी रही है कि प्रार्थी श्रमिक प्रतिपक्षी नियोजक के यहां निरन्तर 120 दिवस की सेवा पूर्ण करने के पश्चात् से ही अस्थायी कर्मकार का दर्जा प्राप्त करने का अधिकारी भी हो गया था। आगे यह साक्ष्य भी रहा है कि प्रतिपक्षी नियोजक द्वारा प्रतिपक्षी के यहां कार्यरत अन्य कर्मचारियों के समान ही स्टाफ केन्टीन के कर्मकारों को भी रेलवे के नियमों के आधार पर ही सुविधा पास एवं अन्य सुविधायें देय रही हैं। आगे यह साक्ष्य भी रही है कि प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक को उक्त प्रकार से सेवा से पृथक् करने के पश्चात् औद्योगिक विवाद नियमों के नियम 77 व 78 की अवहेलना करते हुए एक अन्य श्रमिक अशोक पुत्र नरेन्द्र सिंह को दिनांक 1/4/87 से नव नियोजित भी किया गया है तथा नयी नियुक्तियां भी अपने आदेश दिनांक 21/3/94 व 7/4/94 के द्वारा भी की गयी है। प्रार्थी श्रमिक द्वारा अपनी उक्त मौखिक साक्ष्य के समर्थन में प्रलेखीय साक्ष्य में प्रलेख प्रदर्शित डब्ल्यू. 1 सविस् कार्ड, प्रदर्शित डब्ल्यू. 2 अशोक कुमार की पहली नियुक्ति के संबंध में भरे जाने वाला व्यौरा विवरण व प्रदर्शित डब्ल्यू. 3 श्रीमती आरतीबाई का सेवा कार्ड भी प्रस्तुत कर प्रदर्शित करवाया गया है। प्रार्थी श्रमिक द्वारा स्टाफ केन्टीन के कर्मकारों की जारी रेलवे पास की फोटो प्रतियां भी प्रस्तुत की गयी हैं तथा प्रतिपक्षी नियोजक से स्टाफ केन्टीन के कर्मकारों को जारी किये गये रेलवे पास का विवरण पत्र भी प्रस्तुत करवाया गया है जिस विवरण पत्र के अवलोकन पर केन्टीन स्टाफ के कर्मकारों की रेलवे पास/पीटी ओज जारी किया जाना भी प्रतिपक्षी नियोजन की ओर से स्वीकार्य रहा है।

9. प्रार्थी श्रमिक के उक्त मौखिक एवं प्रलेखीय साक्ष्य के विपरीत प्रतिपक्षी साक्षी निर्भय दीक्षित कल्याण निरीक्षक की मात्र यह साक्ष्य रही है कि डी.आर.एम. ऑफिस की स्टाफ केन्टीन गैर सांख्यिक केन्टीन रही है जिसकी व्यवस्था स्टाफ द्वारा चुने हुए प्रतिनिधियों की कमेटी द्वारा की जाती है और इसे बिना लाभ एवं हानि पर चलाया जाता है जिस केन्टीन में केवल 5 कर्मचारी ही नियोजित रहे हैं। कथित कर्मकारों का बतलाने रेलवे कर्मचारियों चयन आयोग या अन्य रेलवे एजेंसी द्वारा न ही किया गया और यह स्टाफ केन्टीन कर्मचारों रेलवे कर्मचारी नहीं है। रेलवे केवल 70-सब्सोडी का ही भूगतान करती है। आगे यह साक्ष्य भी नहीं है कि वर्ष 83-84 एवं 85 का स्टाफ केन्टीन का पिछला रिकार्ड आज की तारीख में उपलब्ध नहीं रहा है। शपथ पत्र की प्रतिपरीक्षा पर यह साक्ष्य भी रही है कि साक्षी रिकार्ड के अभाव में प्रार्थी श्रमिक की नियुक्ति तिथि तथा सेवा मुक्ति तिथि नहीं बतला सकता। आगे यह स्वीकारोक्ति भी रही है कि प्रदर्शित डब्ल्यू. 1 प्रार्थी श्रमिक का हमारे विभाग द्वारा जारी किया हुआ सविस् कार्ड हो सकता है, इस पर हमारे विभाग के सीनियर डी.पी. ओ. की मोहर ए से भी लगी हुई है। आगे यह स्वीकारोक्ति भी रही है कि केन्टीन के कर्मचारियों को रेलवे

की तरफ से पास आदि की सुविधा दी जाती है। आगे यह स्वीकारोक्ति भी रही है कि प्रार्थी श्रमिक को मुआवजा राशि नहीं दी गयी है नोटिस अथवा नोटिस वेतन दिये जाने के संबंध में कोई जानकारी नहीं है। प्रतिपक्षी साक्षी द्वारा अपनी उक्त माध्य के समर्थन में कोई प्रलेखीय साक्ष्य भी प्रस्तुत नहीं की गयी है। प्रार्थी श्रमिक के लिखित आवेदन के उपरान्त भी प्रतिपक्षी नियोजक की ओर से प्रार्थी श्रमिक की पे-शीट्स उपस्थिति रोल व कैंटीन कर्मचारियों के पी.एफ. खातों की नकलें व सेवा संबंधी रिकार्ड भी न्यायालय के समक्ष प्रस्तुत नहीं किये गये हैं।

10. उभय पक्षों द्वारा प्रस्तुत उक्त कुल मौखिक एवं प्रलेखीय साक्ष्य पर ध्यानपूर्वक विचारोपरान्त प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक की इस माध्य का कि प्रार्थी श्रमिक द्वारा स्टाफ कैंटीन में दिनांक 31-5-83 से नियोजित होकर दिनांक 4-6-85 तक निरन्तर कार्य किया गया है। तब प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक को दिनांक 5-6-85 से बिना एक माह का नोटिस अथवा नोटिस वेतन व छुट्टी का मुआवजा अथवा किये सेवा से पृथक किया गया है और सेवा से पृथक करने के पश्चात् एक अन्य श्रमिक अशोक कुमार को सेवा पर तब नियोजित भी किया गया है, का खंडन किसी भी प्रकार से अपनी मौखिक एवं प्रलेखीय साक्ष्य से नहीं किया गया है तब प्रार्थी श्रमिक की अधिष्ठित माध्य से यह पूर्णतया प्रमाणित हुआ है कि प्रार्थी श्रमिक द्वारा प्रतिपक्षी कार्यालय की स्टाफ कैंटीन में दिनांक 31-5-83 से नियोजित होकर 4-6-85 तक निरन्तर कार्य कर उक्त नियोजन काल में प्रत्येक 12 कलैण्डर माह में 240 दिवस पूर्ण कार्य किया गया है तब प्रार्थी श्रमिक को दिनांक 5-6-85 से अधिनियम की धारा 25-एफ की अवहेलना कर सेवा से पृथक किया गया है।

11. प्रतिपक्षी नियोजक की ओर से जवाब क्लेम प्रस्तुत कर व जवाब क्लेम समर्थन में प्रतिपक्षी साक्षी की माध्य कर माह यह आपत्ति की गयी है कि प्रतिपक्षी कार्यालय की स्टाफ कैंटीन, कानूनी दायित्व के रूप में स्थापित कैंटीनों में भिन्न कैंटीन रही है जिस कैंटीन की व्यवस्था स्टाफ द्वारा चयन हुए प्रतिनिधि की कमेटी द्वारा की जाती है तथा उसी चयनित कमेटी द्वारा स्टाफ कैंटीन के कर्मचारियों की भर्ती की जाती है। रेलवे विभाग द्वारा उक्त प्रकार की स्टाफ कैंटीन को केवल 70% सक्सीडी का भुगतान ही किया जाता है। प्रतिपक्षी नियोजक की ओर से विवादित उक्त स्टाफ कैंटीन के गैर-संवैधिक अथवा संविधिक होने के संदर्भ में भी कोई प्रलेख न्यायाधिकरण के समक्ष प्रस्तुत कर प्रदर्शित नहीं करवाये गये हैं, किन्तु प्रतिपक्षी नियोजक की ओर से यह स्पष्टतः स्वीकार्य रहा है कि विवादित स्टाफ कैंटीन प्रतिपक्षी नियोजक की गैर संविधिक स्टाफ कैंटीन रही है जिस कैंटीन को 70% सक्सीडी भी रेलवे विभाग द्वारा देय रही है। भारतीय रेल स्थापना मैनुअल के भाग "एफ" के पैरा सं. 2229 में कानूनी दायित्व के रूप में कैंटीनों की व्यवस्था व पैरा 2230 में कानूनी दायित्व के

रूप में स्थापित कैंटीनों से भिन्न कैंटीनों की व्यवस्था पैरा 2231 में कैंटीन की स्थापना करने में संबंधित स्थिति पैरा 2232 में कानूनी दायित्व के अन्तर्गत स्थापित कैंटीनों के प्रबन्ध व पैरा 2233 में कानूनी दायित्व के अन्तर्गत स्थापित, कैंटीनों से भिन्न कैंटीनों के प्रबंधन के संदर्भ में व्यवस्था दी हुई है तथा पैरा 2234 में लागत का भाग (2) (ग) आर्थिक सहायता (1) प्रत्येक कैंटीन के लिए मंहगाई सहित कैंटीन के कर्मचारियों की भंजरी के 70% तक सक्सीडी विये जाने के प्रावधान प्रावधित रहे हैं। प्रस्तुत प्रकरण में पक्षकारों द्वारा उक्त संदर्भ में प्रस्तुत की गयी माध्य के अनुसार व उक्त प्रावधित प्रावधानों के प्रकाश में विवादित स्टाफ कैंटीन कानूनी दायित्व के रूप में स्थापित कैंटीनों से भिन्न कैंटीन होना पूर्णतया प्रमाणित होता है। माननीय उच्चतम न्यायालय द्वारा उद्धृत उक्त न्यायदृष्टांत "ए.आई.आर. 1990 एस. सी. 937" में विवादित उक्त प्रकार से रही स्टाफ कैंटीन को "नोन स्टेब्ल्यूटरी रिकोगनाइज्ड रेलवे कैंटीन" के रूप में परिभाषित किया गया है और उक्त स्टाफ कैंटीन के कर्मचारियों के संदर्भ में निम्न न्यायमिद्धांत व अभिमत भी प्रकट किया गया है :—

"The employees in the Non-statutory Recognised Railway Canteens are entitled to be treated on par with the employees in the statutory canteens and they should also be treated for all purposes as railway servants."

12. माननीय उच्चतम न्यायालय द्वारा प्रतिपादित उक्त न्यायमिद्धांत व अभिमत के प्रकाश में प्रार्थी श्रमिक जो नोन-स्टेब्ल्यूटरी रिकोगनाइज्ड रेलवे कैंटीन, विवादित स्टाफ कैंटीन का कर्मचारी रहा है, तब वह प्रतिपक्षी नियोजक का कर्मकार रहता है और प्रतिपक्षी नियोजक व प्रार्थी श्रमिक के मध्य नियोजक व कर्मकार के संबंध स्थापित रहते हैं। प्रार्थी श्रमिक द्वारा स्वीकार्य रूप में दिनांक 31-5-73 से नियोजित होकर दिनांक 4-6-85 तक निरन्तर कार्य कर उक्त नियोजनकाल में प्रत्येक 12 कलैण्डर माह में 240 दिवस पूर्ण कार्य किया गया है तब प्रार्थी श्रमिक की उक्त सेवा पर अधिनियम की धारा 25-एफ के प्रावधान भी प्रभावी होते हैं। प्रार्थी श्रमिक की माध्य से यह भी पूर्णतया प्रमाणित हुआ है कि प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक की दिनांक 5-6-85 से सेवा से पृथक किया गया है जो सेवा से पृथक किया जाना अधिनियम के अधीन सेवा से छुट्टी रही है। प्रतिपक्षी नियोजक की ओर से यह स्वीकार्य रहा है कि प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक को दिनांक 5-6-85 से सेवा से पृथक करते समय अधिनियम की धारा 25-एफ के आजात्मक प्रावधानों की परिपालना नहीं की गयी है तब प्रतिपक्षी नियोजक द्वारा प्रार्थी श्रमिक की दिनांक 5-6-85 से अधिनियम की धारा 25-एफ की पालना किये बगैर सेवा से पृथक किया जाना भी किसी प्रकार उचित एवं वैध नहीं रहा है तब प्रार्थी श्रमिक प्रतिपक्षी नियोजक के यहां नियोजन में सेवा की निरन्तरता सहित पुनः सेवा पर बहाल करवाये जाने का अधिकारी होना भी पूर्णतया प्रमाणित होता है।

13. जहाँ तक प्राथी श्रमिक के पिछले वेतन प्राप्त करने के अधिकार का प्रश्न है, प्राथी श्रमिक की ओर से शपथ-पत्र की प्रतिपरीक्षा पर यह स्वीकार्य रहा है कि वह सेवा से पृथक होने के पश्चात् से पूजा-पाठ का कार्य करता है जिस कार्य से उसे 10-20 रु. रोज की आय हो जाती है। इस प्रकार प्राथी श्रमिक की ओर से यह स्वीकार्य रहा है कि प्राथी श्रमिक सेवा पृथक के पश्चात् से ही अन्यत्र लाभकारी नियोजित रहा है तब प्रस्तुत तथ्य एवं समस्त परिस्थितियों को दृष्टिगत रखते हुए प्राथी श्रमिक पिछले वेतन स्वरूप 30% वेतन ही प्राप्त करने का अधिकारी होना पाया जाता है।

14. अतः उक्त सम्पूर्ण विवेचन के आधार पर भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा सम्प्रेषित निर्देश को इस प्रकार उल्लिखित किया जाता है कि प्रतिपक्षी नियोजक डिब्रीजनल रेलवे मैनेजर, पश्चिम रेलवे, कोटा द्वारा प्राथी श्रमिक राकेश ठाकुर को सेवा में पृथक किया जाना उचित एवं वैध नहीं है, फलस्वरूप प्राथी श्रमिक प्रतिपक्षी नियोजक के यहाँ पिछले 30% वेतन व सेवा की निरन्तरता सहित पुनः सेवा पर बहाल होने का अधिकारी घोषित किया जाता है।

इस अधिनिर्णय की गमूचित सरकार को नियमानुसार प्रकाशमार्थ भिजवाया जाये।

जगदीश प्रसाद शर्मा, न्यायाधीश

नई दिल्ली, 25 फरवरी, 1999

का.श्रा. 817.—आयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साउथ सेंट्रल रेलवे, हुबली के प्रवन्धतंत्र के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबन्ध में निर्दिष्ट आयोगिक विवाद में केन्द्रीय सरकार आयोगिक अधिकरण बंगलूर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 6-1-1999 को प्राप्त हुआ था।

[सं. एल-41012/62/93-आई.आर.(डी.यू.)बी-1]

सनातन, डेस्क अधिकारी

New Delhi, the 25th February, 1999

S.O. 817.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of South Central Rly. and their workman, which was received by the Central Government on 6-1-1999.

[No. L-41012/62/93-IR(DU)/B.I.]

SANATAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT BANGALORE

DATED 23RD DECEMBER, 1998

PRESENT :

JUSTICE R. RAMAKRISHNA
PRESIDING OFFICER
C.R. NO. 34/1994

I PARTY

Shri B. M. Ghodke
Bannattikkatta,
Old Hubli
Hubli.

II PARTY

The Divisional Railway
Manager, South Central
Railway, Hubli-580001.

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section (1) and sub-section 2A of the section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide Order No. L-41012/62/93-IR(DU) dated 28-3-94 for adjudication on the following schedule

SCHEDULE

"Whether the management of South Central Railway, Hubli is justified in removing Shri B. M. Ghodke from service? If not, to what relief the workman is entitled?"

2. The first party joined the services of the second party as Electrical Khalasi w.e.f. 19-5-67. He was found absent from 22-1-86 to 20-12-86. The second party initiated domestic enquiry by issuing charge sheet dated 3-7-86. After giving full opportunity the enquiry officer submitted his report on 24-11-86. The competent authority passed an order of dismissal. The said order has become final. The first party raised various contentions against his removal from service. The second party filed objections denying the contentions raised by the first party as it relates to domestic enquiry and the award of sentence. They justified the action as it was in accordance with law.

3. The first party in his evidence does not dispute his unauthorised absence, but gave an excuse of some depression. The second party in their evidence have justified the action taken by them.

4. The first party has put in service, which comes almost 19 years. The case of this workman is not different from the other cases decided today of his companion workmen. I have given valid reason to convert the order of removal to that of compulsory retirement by giving reasons. Therefore the

reasons given in C.R. No. 31/94 applies to the facts of this case. In the result I make the following order.

ORDER

5. The order of removal by the second party on proved fact of misconduct is not justified. In the place of removal an order of compulsory retirement w.e.f. 7th April, 1987 is substituted. The second party is directed to calculate the gratuity and the pensionary benefits entitled to the workman on the premise, that the workman is compulsorily retired. The said benefit shall be extended to the workman expeditiously.

Dictated to the stenographer, transcribed by her, corrected and signed by me.

JUSTICE R. RAMAKRISHNA, Presiding Officer

नई दिल्ली, 22 फरवरी, 1999

का. आ. 818.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14), की धारा 17 के अनुसरण में, केन्द्रीय सरकार कलकत्ता पोर्ट ट्रस्ट के प्रबन्धन के सबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 22-2-99 को प्राप्त हुआ था।

[सं. एन-32012/16/93-आई.आर. (विविध)]

बी. एम. डेविड, डेस्क अधिकारी

New Delhi, the 22nd February, 1999

S.O. 818.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Calcutta Port Trust and their workman, which was received by the Central Government on the 22-2-99.

[No. L-32012/16/93-IR (Misc.)]

B: M. DAVID, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL AT CALCUTTA

Reference No. 35 of 1994

Parties :

Employers in relation to the management of Calcutta Port Trust

AND

Their workmen

Present :

Mr. Justice A. K. Chakravarty, Presiding Officer.

Appearance :

On behalf of Management : Mr. G. Mukhopadhyay, Senior Labour Officer (IR).

On behalf of Workmen : Mr. T. B. Roy, Vice President of the Union.

STATE : West Bengal INDUSTRY : Port

AWARD

By Order No. L-32012/16/93-IR (Misc.) dated 5-10-1994 the Central Government in exercise of its powers under section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Calcutta Port Trust in refusing to adjust Shri Ashoke Baran Shome, Number Taker to the post of Lower Division Clerk w.e.f. 2-12-1988 as being done in some other case by the management is justified? If not, what relief the concerned workman is entitled to?"

2. The instant reference has arisen at the instance of the Calcutta Port Shramik Union (in short, the union) challenging the action of the management of Calcutta Port Trust (in short, the management) in refusing adjustment of the concerned workman Ashoke Baran Shome, Number Taker to the post of Lower Division Clerk (LDC in short) with effect from 2-12-1988.

3. Union's case, in short, is that by Order No. DC (1)/3184 dated 2-12-1988 issued upon the Joint Head Train Examiner, the Chief Mechanical Engineer requisitioned the services of the concerned workman, a Number Taker attached to the office of the HTXR, to work as LDC in the office of the Chief Mechanical Engineer due to paucity of man-power in the Chief Mechanical Engineer's Office in the clerical cadre. Since then the concerned workman was deployed as LDC in the Chief Mechanical Engineer's Office and was carrying out duties and functions of LDC and as he was carrying regularly the duties of LDC, he is entitled to pay and allowances of the LDC. The Chief Mechanical Engineer accordingly recommended to the Calcutta Port Trust (CPT in short) administration for adjustment of the concerned workman to one of the posts of LDCs which were lying vacant in his office so that he might get the salary of the LDC. In spite of such specific recommendation made by the Chief Mechanical Engineer the CPT administration without any reason and without considering the previous instances did not agree to the said proposal. Having failed to get any justice from the CPT authorities in this matter, the concerned workman referred the matter to his union which took up his case and raised an industrial dispute. All attempts at conciliation having failed, the matter was

referred to this Tribunal by the Central Government for adjudication. The union has accordingly prayed for setting aside the order of the CPT authorities in refusing adjustment of the concerned in the post of LDC and also for direction upon the management for his adjustment in the said post.

4. The management of the CPT in its written statement has alleged that the post of Number Taker is a Class-III post and at the material time the scale of pay of the post was Rs. 1160-40-1800. The scale of pay of the LDC, on the other hand, at that time was Rs. 1165-40-1485-45-1935. The mode of filling up of the post of LDC is by direct recruitment. Hence candidates sponsored by the Employment Exchange, excepting 20 per cent of such vacancies, which are to be filled up by promotion from Class-IV employees. The management has alleged that the reason for utilising the service of the concerned workman as a LDC was that the work-load of the HTXR Section to which the concerned workman was attached as a Number Taker had been lessened considerably and accordingly with a view to avoid payment of idle wage some Number Taker including the concerned workman were deployed as LDC. The management has further alleged that there is no question of adjustment in the matter of posting of an employee to any scale higher than the one enjoyed by such employee. Temporary deployment of the concerned workman to do the work of LDC shall not vest him with any right to claim the scale of pay of a post having higher scale of pay. The management accordingly prayed for dismissal of the case of the union.

5. The union filed a rejoinder denying the allegations of the management in its written statement. It is alleged in this rejoinder that the Chief Mechanical Engineer being the appointing authority and he having by his letter dated 2-12-1988 requisitioned the service of the concerned workman as LDC in the office of the Chief Mechanical Engineer and he by his letter dated 15-12-1988 submitted the proposal to the administration to accord sanction for adjustment of Shri Shome in one of the vacant post of LDC, the administration acted wrongly in not according the sanction as asked for.

6. Heard Mr. Mukhopadhyay the representative of the management and Mr. Roy the representative of the union.

7. There is no dispute in this case that the concerned workman was initially appointed as a Number Taker and subsequently his service was requisitioned for working in the post of LDC in the office of the Chief Mechanical Engineer. The union has produced two letters for the purpose of showing how he was deployed to perform the work of LDC in the office of the Mechanical Engineer. The first letter which is marked Ext. W-1 in this case is a letter of the Deputy Chief Mechanical Engineer (II) to the Secretary wherein he had recommended adjustment of the concerned workman as LDC as he had been performing regular clerical job with effect from 2-12-88. The other letter, Ext. W-2 was written on behalf of the Chief Mechanical Engineer to the Secretary for adjustment of the concerned workman to the post of

LDC as the scale of pay of Number Taker and LDC are same.

8. Mr. Mukhopadhyay, representative of the management raised two objections in respect of the claim of adjustment of the concerned workman. It was submitted in the first place that the post of Number Taker and the LDC are entirely different and each post has its own independent channel of promotion. He drew my attention to the evidence of the concerned workman himself towards the last part of his cross-examination where he stated that from the post of Number Taker the next promotional avenue is Train Examiner Grade IV and not LDC. He also drew my attention to the evidence of MW-1 where he stated that the posts of LDCs are filled up by direct recruitment upto 80 per cent and the remaining 20 per cent of the posts are promotional posts from Class-IV employees. It may be that separate channels of promotion have been prescribed for each holder of the post of a particular category, but no hard and fast rule was brought to my notice from which it can be understood that inter se adjustment of Class-III employees holding different posts are not permissible. That being so, this objection of Mr. Mukhopadhyay must fail.

9. The second objection of Mr. Mukhopadhyay, however, is more formidable in nature. He submitted that even if inter se adjustment is permissible, still then, such adjustment of an employee from one post to another having higher scale of pay is not permissible. According to him if there be any such adjustment that will indicate a promotion and such promotion being not the subject matter of the reference, the Tribunal should not pass any order in the matter. Mr. Mukhopadhyay accordingly submitted that the scale of pay of the LDC was always higher than the scale of pay of the Number Taker. For this purpose he referred to the Exts. M-1 and M-1a which are extracts of the establishment schedule of the Mechanical Engineering Dept. From the evidence of MW-1 it will appear that this two exhibits show the scale of pay existing in 1991. The concerned workman while deposing as WW-1 categorically stated in his evidence that on 2-12-1988 pay scale of Number Taker and the LDC was the same. This point was not specifically challenged in his cross-examination. Further, as stated above in the letter of recommendation of the Chief Mechanical Engineer for adjustment of the concerned workman as LDC on 15-12-1988 (Ext. W-2) it was stated that the scale of pay of the Number Taker is identical to that of LDC. Mr. Mukhopadhyay submitted that it is a wrong statement, but nothing having been produced in support of that contention nor there being evidence on record that such statement of the Chief Mechanical Engineer was factually incorrect that I am to hold that pay scale of the Number Taker and the LDC were identical in 1988. Mr. Mukhopadhyay's specious argument of not granting adjustment as the post of LDC carrying higher pay scale accordingly could not be proved on facts.

10. Admittedly, the concerned workman having been working in the post of LDC on and from 2-12-88

on the basis of an order passed by the Chief Mechanical Engineer to that effect that the CPT authorities can not have any reason to deny such workman the pay and allowances of that post. It has not been proved that the concerned workman had been posted there on his own violation after he had foregone his right to the pay and allowances of the said post of LDC. Had that been so, the contention of the management for denying him the benefit of the said post of LDC could have been justified. Since the management has requisitioned the service of the concerned workman for more than 10 years as LDC, no plea shall be available to the management for not adjusting him in the said post, even though he was originally appointed as Number Taker. Issuance of any direction upon any employee of a different category to work in another category and allowing him to continue with such work in the said category for a long length of time, which in this case is more than 10 years, vests in such employee a right to be adjusted in the said post. The management cannot take away that right on the plea that such adjustment shall amount to promotion as his subsequent posting as LDC had higher scale of pay even assuming that LDC has a higher pay scale to be true. I have already stated that the alleged difference in the pay scale of LDC and Number Taker in 1988 has not been proved. Since the management cannot be allowed to play fraud upon the employee by making him to work in a post without payment of salary in terms of the scale of pay of that post that the concerned workman must be deemed to have been appointed as a LDC with effect from 2-12-1988 and is liable to be paid accordingly.

11. So, upon consideration of the contentions of the parties alongwith the relevant facts and circumstances of this case, I am of the opinion that the management of the Calcutta Port Trust was not justified in refusing to adjust the concerned workman Ashoke Baran Shome to the post of Lower Division Clerk with effect from 2-12-1988. The management of the Calcutta Port Trust is accordingly directed to issue necessary order in respect of such adjustment and pay him all his dues consequent upon fixation of his pay in the post of Lower Division Clerk with effect from 2-12-1988.

This is my Award.

Dated, Calcutta,

The 12th February, 1999.

A. K. CHAKRAVARTY, Presiding Officer

नई दिल्ली, 4 मार्च, 1999

का. आ. 819.—कर्मचारी भविष्य निधि एवं प्रकीर्ण उपबंध अधिनियम, 1952 (1952 का 19) की धारा 5क की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार केन्द्रीय न्यासी बोर्ड में श्री वी. एस. नरसिम्हन के स्थान पर श्री वी. पी. चोपड़ा को सदस्य के रूप में नियुक्त करती है और 10 अप्रैल, 1997 को भारत के राजपत्र, असाधारण के भाग-II, खंड 3, उप-खंड (ii) में प्रकाशित भारत सरकार के श्रम मंत्रालय की दिनांक 09 अप्रैल, 1997 की अधि-

सूचना का. आ. संख्या 321(अ) में निम्नलिखित संशोधन करती है।

उक्त अधिसूचना में क्रम संख्या—31 के सामने की प्रविष्टियों के लिए निम्नलिखित प्रतिस्थापित किया जाएगा, अर्थात् :—

श्री वी. पी. चोपड़ा,
अध्यक्ष,
फेडरेशन आफ एसोसिएशन आफ स्माल इन्डस्ट्रीज आफ इंडिया (एफ. ए. एस. आई. आई.),
मार्फत मै. इन्डो फास्टनर्स,
ई-30, फोकल प्वाइंट,
लुधियाना-141010

[फा. सं. पी-20012/1/97--एस. एस.--II]

जे. पी. शुक्ला, अवर सचिव

New Delhi, the 4th March, 1999

S.O. 819.—In exercise of the powers conferred by sub-section (i) of section 5-A of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (19 of 1952) the Central Government hereby appoints Shri V. P. Chopra as a member of the Central Board of Trustees in place of Shri V. S. Narasimhan and makes the following amendment in the Notification of the Government of India in the Ministry of Labour S.O. 321(E) dated the 9th April, 1997 published in Part II Section 3 Sub-Section (ii) the Gazette of India Extraordinary dated 10th April, 1997.

2. In the said notification for entries against Sl. No. 31, the following entries shall be substituted namely :

Shri V. P. Chopra, President,
Federation of Association of
Small Industries of India (FASII)
c/o, M/s. Indo Fastners,
E-30 Focal Point,
Ludhiana-141010.

[No. V-20012/1/97-SS. II]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 8 मार्च, 1999

का. आ. 820.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 1 की उप-धारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 अप्रैल, 1999 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय-4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और 6 (धारा-76 की उप-धारा (1) और धारा-77, 78, 79, और 81 के सिवाय

जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय-5 और 6 (धारा-76 की उप-धारा (i) और धारा-77, 78, 79, और 81 सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध तमिलनाडु राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—
“सलेम जिले के बाहरी क्षेत्र के मेट्टूर तालुक के नांगायल्ली के राजस्व गांव वाले क्षेत्र।”

[संख्या : एस-38013/6/99-एस.एस.-I]

जे. पी. शुक्ला, अवर सचिव

New Delhi, the 8th March, 1999

S.O. 820.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st April, 1999 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (i) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Tamil Nadu namely :

“Areas comprising the revenue villages of Nangayalli of Mettur Taluk of Salem Suburbs in Salem District.”

[No. S-38013/6/99-SS. I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 4 मार्च, 1999

का.आ. 821.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एस.ई.सी.एल. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारियों के बीच अनुबन्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 18-2-99 को प्राप्त हुआ था।

[सं. 22012/204/93-आई.आर.(सी-II)]

वी.के. राजन, डेस्क अधिकारी

New Delhi, the 4th March, 1999

S.O. 821.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of S.E.C.L. and their workman, which was received by the Central Government on 18-2-99.

[No. 22012/204/93-IR (C-II)]

V. K. RAJAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

Shri D. N. Dixit, Presiding Officer.

Case No. CGIT/LC/R(213)/93

Shri Bhawan Singh,

Ex. P. R. Loader .. Applicant

Versus

Sub Area Manager,
SECL, Rajgamar Colliery,

Distt. Bilaspur. .. Non-applicant

AWARD

Delivered on this 3rd day of February, 1999

1. The Ministry of Labour, Government of India vide its order No. 22012/204/93-IR (C. II) dated 4-10-93 has referred the following dispute for adjudication by this Tribunal.

“Whether action of the management of Rajgamar Colliery of SECL Bilaspur is justified in terminating the services of Sh. Bhawan Singh, Loader w.e.f. 7-12-90 ? If not, what relief the workman concerned is entitled to ?”

2. On 29-12-97, the workman Bhawan Singh and management compromise the dispute and submitted a joint petition that they have settled the dispute outside the Court. As per terms of the compromise, the dispute is settled between the parties. Cost as incurred.

3. Copies of the award be sent to the Ministry of Labour, Government of India as per rules.

D. N. DIXIT, Presiding Officer

नई दिल्ली 12 मार्च, 1999

का.आ. 822.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ठ) के उपखंड (VI) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 1930 दिनांक 15 सितम्बर, 1998 द्वारा बैंक नोट प्रेस देवास को उक्त अधिनियम के प्रयोजनों के लिए 17 सितम्बर, 1998 में छह माह की कालविधि के लिए लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालविधि को छह माह की और कालविधि के लिए बढ़ाया जाता अपेक्षित है ;

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (डू) के उपखंड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 17 मार्च, 1999 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं० एस.-11017/4/97-आई.आर. (पी.एल.)]

एच. सी. गुप्ता, अवर सचिव

New Delhi, the 12th March, 1999

S.O. 822.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 1930 dated the 15th September, 1998 services in Bank Note Press, Dewas (M.P.) to be a public utility service for the purpose of the said Act, for a period of six months from the 17th September, 1998;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 17th March, 1999.

[No. S-11017/4/97-IR(PL)]

H. C. GUPTA, Under Secy.

नई दिल्ली, 12 मार्च, 1999

का.आ. 823.—केन्द्रीय सरकार ने यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (डू) के उपखंड (VI) के उपखंडों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 1780 दिनांक 28 अगस्त, 1998 द्वारा बैंकिंग उद्योग में सेवा

को उक्त अधिनियम के प्रयोजनों के लिए 19 सितम्बर, 1998 से छह मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था।

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छह मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (डू) के उपखंड (VI) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए 19 मार्च, 1999 से छह मास की और कालावधि के लिए लोक उपयोगी सेवा घोषित करती है।

[फा. सं० एस. 11017/5/97 आई.आर. (पी. एल.)]

एच. सी. गुप्ता, अवर सचिव

New Delhi, the 12th March, 1999

S.O. 823.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 1780 dated 28th August, 1998 the Banking Industry carried on by a Banking Company as defined in clause (bb) of section 2 of the said Act to be a public utility service for the purpose of the said Act, for a period of six months from the 19th September, 1998;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 19th March, 1999.

[No. S-11017/5/97-IR(PL)]

H. C. GUPTA, Under Secy.

